

ADMINISTRATIVE PANEL DECISION

PUMA SE v. Raghu Prem Telukuntla

Case No. D2022-4507

1. The Parties

The Complainant is PUMA SE, Germany, represented by Göhmann Rechtsanwälte, Germany.

The Respondent is Raghu Prem Telukuntla, United Arab Emirates.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 25, 2022. On November 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 28, 2022, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 December 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 28, 2022.

The Center appointed Lynda M. Braun as the sole panelist in this matter on January 6, 2023. 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 organized and existing under the laws of Germany. The Complainant is a global manufacturer of sport/lifestyle clothing and sports equipment. The Complainant holds dozens of trademarks based on the PUMA brand in many jurisdictions worldwide. The Complainant owns a wide range of brands in many international classes, including the PUMA word mark and the PUMA design mark. For example, International Trademark Registration No. 175859 was registered on March 26, 1954, in class 25. The aforementioned trademarks hereinafter collectively will be referred to as the "PUMA Mark".

The Complainant owns a number of domain names, including its official domain name <puma.com>, which resolves to the Complainant's principal website at "www.puma.com".

The Disputed Domain Name was registered on September 14, 2020 and resolved to a landing page entitled "Global Franchise Information", indicating that the user arriving at the page could obtain PUMA franchise rights and dealership opportunities after completion of a form.

5. Parties' Contentions

A. Complainant

The following are the Complainant's contentions:

- the Disputed Domain Name is confusingly similar to the Complainant's PUMA Mark;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- the Disputed Domain Name was registered and is being used in bad faith;
- the Complainant seeks the transfer of the Disputed Domain Name from the Respondent in accordance with paragraph 4(i) of the Policy.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Name transferred to the Complainant, the Complainant must prove the following (Policy, paragraph 4(a)):

- (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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the PUMA Mark as explained below.

It is uncontroverted that the Complainant has established rights in the PUMA Mark based on its many years of use as well as its numerous registered trademarks for the PUMA Mark in jurisdictions worldwide. The registration of a mark satisfies the requirement of having trademark rights for purposes of standing to file a UDRP case. As stated in section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[w]here the complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case". Thus, the Panel finds that the Complainant satisfied the threshold requirement of having rights in the PUMA Mark.

The Disputed Domain Name consists of the PUMA Mark in its entirety followed by the term "franchise" and then followed by the generic Top-Level Domain ("gTLD") ".com". Where the trademark is recognizable in the Disputed Domain Name, the addition of a term such as "franchise" does not prevent a finding of confusing similarity. See [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) would not prevent a finding of confusing similarity under the first element").

Finally, the addition of a gTLD, such as ".com", in a domain name is a technical requirement. Thus, it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Thus, the Panel concludes that the Disputed Domain Name is confusingly similar to the Complainant's PUMA Mark.

Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production of evidence that demonstrates rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

In this case, given the facts as set out above, the Panel finds that the Complainant has made out a *prima facie* case. The Respondent has not submitted any arguments or evidence to rebut the Complainant's *prima facie* case. Furthermore, the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its PUMA Mark. Nor does the Complainant have any type of business relationship with the Respondent. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, nor any evidence that the Respondent was using or making demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. See Policy, paragraph 4(c). Rather, the Respondent used the PUMA Mark for commercial gain and to deceive Internet users who mistakenly believed that they arrived at the Complainant's official website in order to obtain a PUMA franchise.

Moreover, the composition of the Disputed Domain Name, comprising the entirety of the PUMA Mark, carries a risk of implied affiliation and cannot constitute fair use here, as it effectively suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel concludes that nothing on the record before it would support a finding that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name. Rather, the Panel finds that the Respondent is using the Disputed Domain Name for commercial gain with the intent to mislead by defrauding the Complainant's customers. Such use cannot conceivably constitute a *bona fide* offering of a product/service within the meaning of paragraph 4(c)(i) of the Policy.

In sum, the Panel finds that the Complainant has established an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name.

Accordingly, the Panel finds that the second element of paragraph 4(a) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The Panel finds that based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith pursuant to paragraph 4(b) of the Policy.

First, the Panel finds that the Respondent's registration and use of the Disputed Domain Name indicate that such registration and use has been done for the specific purpose of trading on the name and reputation of the Complainant and its PUMA Mark. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#) ("[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark").

Second, the Disputed Domain Name was registered more than 40 years after the Complainant first used and registered its PUMA Mark. Therefore, noting the composition of the Disputed Domain Name and its use, the Panel finds that the Respondent had the Complainant's trademark in mind when registering the Disputed Domain Name, an indication of bad faith. Moreover, the Panel finds that the Respondent had actual knowledge of the Complainant's PUMA Mark and targeted the Complainant when it registered the Disputed Domain Name, demonstrating the Respondent's bad faith. Considering the fame of the Complainant in the apparel industry, the Panel finds that the Respondent was aware of the Complainant, the PUMA Mark, and the Complainant's official website at "www.puma.com". Thus, the Respondent's knowledge of the foregoing demonstrates that the Disputed Domain Name was registered and is used in bad faith.

Third, the registration of a domain name that reproduces a widely-known trademark in its entirety (being identical or confusingly similar to such trademark) by an individual or entity that has no relationship to that mark, without any reasonable explanation on the motives for the registration, can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4. The Panel notes that the Disputed Domain Name reproduces the PUMA trademark together with the term "franchise", and that it has been used in connection with a website displaying a contact form purportedly regarding "franchise information", without any reasonable explanation on the motives for the registration and use.

Accordingly, in the absence of a Response or any evidence to the contrary, the Panel finds that the third element of paragraph 4(a) of the Policy has been met by 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 <pumafranchise.com> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: January 18, 2023