

## **ADMINISTRATIVE PANEL DECISION**

**Crocs, Inc. v. Client Care, Web Commerce Communications Limited**  
**Case No. D2022-4746**

### **1. The Parties**

The Complainant is Crocs, Inc., United States of America, represented by Kestenberg Siegal Lipkus LLP, Canada.

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

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

The disputed domain name <crocscolombiaonline.com> (“Domain Name”) 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 December 9, 2022. On December 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 13, 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 December 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 December 14, 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 December 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 9, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on January 19, 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 United States company that since 2002 has been involved in the manufacture and distribution of footwear and related products. Its primary footwear products have been offered for over 20 years under a trade mark consisting of the word “crocs” (the “CROCS Mark”). Since its inception the Complainant has sold over 720 million pairs of footwear in 90 countries. The Complainant is also the owner of the domain names <crocs.com>, <crocs.ca> and <crocs.eu>.

The Complainant holds a number of registered trade marks in various jurisdictions (such as Colombia) for the CROCS Mark including United States trade mark registration number 3836415 registered on August 24, 2010 for goods and services including lightweight slip-resistant footwear.

The Domain Name <croscolumbiaonline.com> was registered on April 21, 2022. The Domain Name is inactive. The Respondent has been the named and unsuccessful respondent in over 80 previous proceedings with the Center, including *Spyder Active Sports, Inc. v. Web Commerce Communications Limited, Client Care*, WIPO Case No. [D2022-4304](#); *Sorel Corporation v. Client Care, Web Commerce Communications Limited*, WIPO Case No. [D2022-4125](#), and *Dakine IP Holdings LP v. Client Care, Web Commerce Communications Limited*, WIPO Case No. [D2022-4397](#).

#### 5. Parties' Contentions

##### A. Complainant

The Complainant makes the following contentions:

- (i) the Domain Name is identical or confusingly similar to the Complainant's CROCS Mark;
- (ii) the Respondent has no rights nor any legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

The Complainant is the owner of the CROCS Mark having registered the CROCS Mark in the various jurisdictions including the United States and Colombia. The Domain Name wholly incorporates the CROCS Mark along with the words “colombia” and “online” and the “.com” Top-Level Domain.

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the CROCS Mark and the Respondent is not commonly known by the Domain Name. The Respondent does not use the Domain Name for a *bona fide* purpose or legitimate noncommercial purpose. Rather, the Domain Name has never been used in any active way.

The Domain Name was registered and is being used in bad faith. Given the fame of the CROCS Mark and the nature of the Domain Name, there are no plausible circumstances under which the Respondent could legitimately use the Domain Name other than in bad faith. In such circumstances, the Respondent's passive holding of the Domain Name amounts to use of the Domain Name in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

To prove this element, the Complainant must have trade or service mark rights and the Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the CROCS Mark, having a registration for the CROCS Mark as a trade mark in various jurisdictions including the United States.

The Domain Name incorporates the CROCS Mark in its entirety with the addition of the term "colombia" and the term "online", and the ".com" Top-Level Domain. Other UDRP panels have repeatedly held that where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that the Domain Name is confusingly similar to the Complainant's CROCS Mark. Consequently, the requirement of paragraph 4(a)(i) of the Policy is satisfied.

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

To succeed on this element, a complainant may make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. If such a *prima facie* case is made out, the respondent then has the burden of demonstrating rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trade mark or service mark rights; or

(iii) you are making legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue."

The Respondent is not affiliated with the Complainant in any way. It has not been authorized by the Complainant to register or use the Domain Name or to seek the registration of any domain name incorporating the CROCS Mark or a mark similar to the CROCS Mark. There is no evidence that the Respondent is commonly known by the Domain Name or any similar name.

There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Name in connection with a *bona fide* offering of goods or services or for a legitimate noncommercial or fair use. In fact, there is no evidence of any demonstrable preparations to use the Domain Name at all.

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has chosen not to respond to the Complaint and thus has failed to provide any evidence of rights and legitimate interests in the Domain Name. The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

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

For the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trade mark or service mark or to a competitor of the complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location (Policy, paragraph 4(b)).

The [WIPO Overview 3.0](#) records, in response to the question "3.1.2 What constitutes a pattern of conduct of preventing a trademark holder from reflecting its mark in a domain name?" that:

"UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration. This may include a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even where directed at the same brand owner. A pattern of abuse has also been found where the respondent registers, simultaneously or otherwise, multiple trademark-abusive domain names corresponding to the distinct marks of individual brand owners..."

The Panel finds that the Respondent has engaged in pattern of registering domain names closely corresponding with the trade marks of commercial enterprises (in the cases referred to in the Factual Background) for commercial gain and to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name. The Respondent has been the unsuccessful party in over 80 cases under the Policy before the Center.

On the basis of this information, the reputation of the Complainant and its CROCS Mark as well as the lack of any explanation by the Respondent of its registration and use of the Domain Name, the Panel is satisfied that the Domain Name was registered in awareness of the Complainant. It also concludes that the Domain Name is presently being held pending use in a bad faith manner that would take advantage of confusion between the Domain Name and the CROCS Mark, namely to prevent the Complainant, being the owner of the CROCS Mark, from reflecting its mark in a corresponding domain name and that the Respondent has engaged in a pattern of such conduct. The Policy, paragraph 4(b)(ii), provides that this circumstance is

evidence of registration and use of a domain name in bad faith. As such, the Panel finds that the passive holding of the Domain Name does not prevent a finding that the Domain Name is being used in bad faith.

Accordingly, the Panel finds that the Respondent has registered and used the Domain Name in bad faith under 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 <croscolumbiaonline.com> be transferred to the Complainant.

*/Nicholas Smith/*

**Nicholas Smith**

Sole Panelist

Date: January 23, 2023