

ADMINISTRATIVE PANEL DECISION

Locatelli S.P.A. v. Guiying Li
Case No. D2023-0248

1. The Parties

The Complainant is Locatelli S.P.A., Italy, represented by Dr. Modiano & Associati S.p.A., Italy.

The Respondent is Guiying Li, China.

2. The Domain Name and Registrar

The disputed domain name <airohitalia.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 January 19, 2023. On January 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 19, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact.

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 January 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 9, 2023.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on March 20, 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 the Italian company Locatelli SpA, a joint stock company seated in Almenno San Bartolomeo, Italy. The Complainant is one of the leading companies in the field of motorcycle safety helmets, doing business since 1986.

The Complainant is known worldwide for their motorcycle helmets, sold under the marks AIROH and AIROH HELMET. The Complainant is the owner of several trademark registrations in at least 80 jurisdictions worldwide for the marks AIROH and AIROH HELMET, *inter alia*, the following trademark registration:

- European Union Trade Mark AIROH, registration No. 010542991, registered on June 2, 2012, for goods in Classes 9, 18, and 25 (as evidenced in Annexes 04 of the Complaint).

Also, the Complainant owns trademark registrations valid in China, where apparently is seated the Respondent.

The Complainant is the registrant of and uses an extensive list of domain names that bear the marks AIROH and AIROH HELMET, as well as some domain names that are handled by authorized third parties, like distributors, agents etc. This extensive list is evidenced in Annex 05 of the Complaint. The Complainant has also established a strong social media presence, with millions of followers on their domain name <airoh.com>.

The disputed domain name was registered on September 23, 2022, and resolves to a website that apparently sells AIROH products and is presented as if it was an authorized dealer of these products, as evidenced in Annex 06 to the Complaint.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's marks registered and used worldwide.

The term chosen by the Respondent to compose the disputed domain name together with AIROH is "italia", which refers to the country where the Complainant is based. The country abbreviation does not prevent the confusing similarity between the disputed domain name and the Complainant's trademark. On the contrary, they lead to confusion, given the presence of the Complainant's mark.

The Complainant owns several registrations worldwide for the trademarks AIROH and AIROH HELMET, as evidenced in Annexes 04 of the Complaint. Also, evidence of the renown of the mark AIROH and its several uses online was produced in Annexes to the Complaint.

The disputed domain name adopted by the Respondent – a reproduction of the Complainant's registered mark associated with a country name – shows a clear intention of misleading the Internet users.

In addition, by using the disputed domain name in connection with a website that falsely appears to be a website for, or otherwise associated with, the Complainant (as evidenced in Annex 06 of the Complaint), the Respondent has failed to create a *bona fide* offering of goods or services.

In sum, the Complainant alleges that the registration and use of the disputed domain name is intentional to mislead Internet users, that it is clear that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

- 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 to the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name is, indeed, confusingly similar to the AIROH trademark, as it is entirely incorporated in the disputed domain name.

The Complainant has presented consistent evidence of ownership of the trademark AIROH, as well as of trademark AIROH HELMETS in jurisdictions throughout the world, by presenting a substantial number of registrations for them, as well as comprehensive evidence of the use of the trademarks.

The use of the trademark AIROH with the country name "italia" in the disputed domain name does not prevent a finding of confusing similarity with the trademark. Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity under the first element.

Given the above, the Panel concludes that the disputed domain name is confusingly similar to the registered trademark of the Complainant.

B. Rights or Legitimate Interests

Given the clear evidence that the trademarks AIROH and AIROH HELMETS are registered in the name of the Complainant and are widely known as identifying the Complainant's activities, and that the Complainant has not licensed this to the Respondent, the Panel finds that the Complainant has established *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

In the absence of a Response, the Respondent has not rebutted such *prima facie* case. Furthermore, the Respondent does not appear to be commonly known by the disputed domain name.

It has also been shown that the disputed domain name has been used to link to a website that is presented as belonging to the Complainant, by offering for sale motorcycle helmets under the mark AIROH, presented by a text that may lead the users to understand that site is authorized by the Complainant, or even belongs to the Complainant.

Furthermore, the fact that the disputed domain name consists of the Complainant's trademark along with a geographic term "italia" carries a risk of implied affiliation, potentially conveying to unsuspecting Internet users the false belief that any website related thereto would be associated or endorsed with the Complainant's official products and services. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 2.5.1.

The Panel finds that the Complainant has established *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. In the absence of a Response, the Respondent has not rebutted such *prima facie* case.

The Panel, thus, finds for the Complainant under the second element of the Policy.

C. Registered and Used in Bad Faith

Given the circumstances of this case, the facts outlined in sections A and B above can also evidence the Respondent's bad faith in the registration and use of the disputed domain name.

The Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant, and the Panel accepts that the disputed domain name may be likely intended to capitalize on the fame and goodwill of the Complainant's trademark. The fact that the disputed domain name resolves to a website purportedly offering for sale products marked AIROH supports a finding of bad faith in these circumstances. The Respondent has acted in bad faith by registering and using the disputed domain name, seeking to attract Internet users by creating a likelihood of confusion with the Complainant's AIROH Marks and siphoning Internet traffic away from the Complainant's official websites.

All the points above lead to the conclusion by this Panel that the Respondent was fully aware of the Complainant when registering the disputed domain name and that the Respondent registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has also proved the third element 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 <airohitalia.com> be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: March 28, 2023