

ADMINISTRATIVE PANEL DECISION

Starbucks Corporation v. starbucks dealership
Case No. D2023-0337

1. The Parties

The Complainant is Starbucks Corporation, United States of America (“United States”), represented by Focal PLLC, United States.

The Respondent is starbucks dealership, India.

2. The Domain Name and Registrar

The disputed domain name <starbucks-franchise.com> (the “Disputed Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 24, 2023. On January 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 25, 2023, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 26, 2023, 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 January 31, 2023.

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 February 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 24, 2023.

The Center appointed Mariya Koval as the sole panelist in this matter on March 1, 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, founded in 1971, is an American multinational, and one of the world's largest chains of coffeehouses and roastery reserves headquartered in Seattle, United States. In its 50 years of existence, the Complainant has developed a brand that is known worldwide and used in connection with a wide variety of goods and services. Currently, the Complainant has approximately 35,711 Starbucks stores in 84 markets around the world. The Complainant is ranked 114th on the Fortune 500 and 288th on the Forbes Global 2000.

The Complainant is the owner of many trademark registrations (the "STARBUCKS Trademark") in numerous countries throughout the world, among which are:

- United States Registration No. 1372630, registered on November 26, 1985, in respect of goods in class 21;
- United States Registration No. 1452359, registered on August 11, 1987, in respect of goods in class 30;
- United States Registration No. 1444549 registered on June 23, 1987, in respect of services in classes 35 and 43;
- United States Registration No. 3907156 registered on January 18, 2011, in respect of services in classes 35 and 42;
- European Union Trade Mark No. 000175539, registered on March 16, 2000, in respect of goods and services in classes 7, 11, 16, 18, 21, 25, 29, 30, and 32.

The Complainant has a significant online presence, operating, among others, the main domain name <starbucks.com> reflecting its STARBUCKS Trademark in order to sale and promote its goods; and being active on social-media platforms such as Facebook, LinkedIn, Twitter, Instagram, YouTube, and Pinterest.

The Disputed Domain Name was registered on November 5, 2022. As at the date of this decision and when the Complaint was filed, the Disputed Domain Name resolves to a parked page with offer of the Disputed Domain Name for sale and different pay-per-click ("PPC") links to third party websites.

5. Parties' Contentions

A. Complainant

The Complainant asserts that it is the owner of all rights in and to the STARBUCKS Trademark in connection with a wide variety of goods and services: the Complainant owns numerous STARBUCKS Trademark registrations in the United States and around the world.

The Complainant contends that the Disputed Domain Name is confusingly similar to the Complainant's STARBUCKS Trademark. The Disputed Domain Name incorporates the STARBUCKS Trademark in its entirety with addition of the generic term "franchise" which does not alter the confusing similarity.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Respondent was undoubtedly aware of the Complainant's STARBUCKS Trademark when it registered the Disputed Domain Name on November 5, 2022. The Complainant has consistently used the STARBUCKS Trademark since it opened its first store in 1971 and now has thousands of stores worldwide. Given that long usage and the resulting fame of the STARBUCKS Trademark, there

can be no dispute that the Respondent was well aware of the Complainant's STARBUCKS Trademark when it registered the Disputed Domain Name.

There is no evidence to support an argument that the Respondent is commonly known by the Disputed Domain Name. Moreover, the Complainant has never licensed or otherwise authorized the Respondent's use of the STARBUCKS Trademark in any domain name, much less the confusingly similar Disputed Domain Name.

The Complainant has received reports (Annex 12 to the Complaint) that the Respondent has used, and/or is using, the Disputed Domain Name to impersonate the Complainant and/or the Complainant's affiliates in order to offer the sale of fraudulent Starbucks franchise licenses. In furtherance of this fraudulent activity and to impersonate the Complainant and/or its affiliates, the Respondent has used an email address that incorporates the Disputed Domain Name.

The Complainant contends that the Respondent registered and is using the Disputed Domain Name in bad faith based on the following:

- the Complainant's use and registration of its STARBUCKS Trademark long predated the Respondent's registration of the Disputed Domain Name;
- the Respondent appears to have used the Disputed Domain Name to perpetuate fraud by using an associated email account to offer counterfeit Starbucks franchise licenses for sale, and by impersonating Starbucks executives in furtherance of this activity;
- based on the alleged contact information for the Respondent provided by the Registrar, the Respondent appears to be attempting to pass itself off as the Complainant, or otherwise suggest an affiliation with the Complainant that does not exist, by incorporating the Complainant's company name in the email address used to register the Disputed Domain Name and referring to itself as "starbucks dealership".

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant to succeed must satisfy the panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights;
- (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

The Complainant has properly asserted its rights in the STARBUCKS Trademark due to the long use and number of registrations globally.

The Disputed Domain Name reproduces the STARBUCKS Trademark in its entirety in combination with a hyphen, the dictionary term "franchise", and the generic Top-Level domain ("gTLD") ".com". According to section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), 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. The nature of such additional term(s) may however

bear on assessment of the second and third elements. The Panel finds that in view of the fact that in this case, the Disputed Domain Name incorporates the entirety of the Complainant's STARBUCKS Trademark, the addition of hyphen and the term "franchise" does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark.

It is also well established that the gTLD, in this case ".com", does not affect the Disputed Domain Name for the purpose of determining whether it is identical or confusingly similar.

Pursuant to section 1.7 of the [WIPO Overview 3.0](#), in cases where a domain name incorporates the entirety of a trademark, the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing.

In light of the above, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's STARBUCKS Trademark and that the Complainant has established the first condition of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Complainant alleges that the Respondent has no rights or legitimate interests in the Disputed Domain Name pursuant to paragraph 4(a)(ii) of the Policy. The Complainant has never authorized in any way, licensed, or permitted the Respondent to use its STARBUCKS Trademark.

In accordance with section 2.1 of the [WIPO Overview 3.0](#) while the overall burden of proof in UDRP proceedings is on the Complainant, the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. If such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name. If the Respondent fails to come forward with such relevant evidence, the Complainant is generally deemed to have satisfied the second element.

The Panel finds that the Complainant has made a *prima facie* case. The Respondent registered the Disputed Domain Name almost forty years after the STARBUCKS Trademark had been registered. There is no evidence that the Respondent owns any STARBUCKS Trademark, nor that it is commonly known by the Disputed Domain Name. Therefore, the Respondent has failed to come forward with any evidence to rebut such *prima facie* case.

There is also no evidence that the Respondent is using the Disputed Domain Name to offer *bona fide* goods and services or making a legitimate noncommercial or fair use of the Disputed Domain Name. On the contrary, at the date of this decision, the Disputed Domain Name resolves to a parked page with offer of the Disputed Domain Name for sale and different PPC links to third party websites. Also, according to the evidence presented by the Complainant (Annex 12 to the Complaint) the Respondent has used, and/or is using, the Disputed Domain Name for the fraudulent scheme, namely, to impersonate the Complainant and/or the Complainant's affiliates in order to offer the sale of fraudulent Starbucks franchise licenses. For the purpose of such fraudulent scheme, the Respondent has used an email address "[...][@starbucks-franchise.com](#)" that incorporates the Disputed Domain Name. The Respondent has also made the fraudulent invoice dated December 19, 2022, and generated additional counterfeit documents. In pursuance of section 2.13.1 of the [WIPO Overview 3.0](#) "Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent." With respect to the circumstances of this case, the Panel considers that it is obvious that the Respondent registered the Disputed Domain Name with the sole intention of commercial gain by creating a likelihood of confusion with the Complainant's STARBUCKS Trademark as to the source of the email communication sent using the Disputed Domain Name.

The Respondent did not file any response to the Complaint and did not participate in this proceeding. The Respondent did not present any evidence for supporting any rights or legitimate interests in the Disputed Domain Name.

In view of the foregoing, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and that the Complainant succeeds under the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant obtained the registration of the STARBUCKS Trademark almost forty years earlier than the Respondent registered the Disputed Domain Name in 2022. Having considered that the Complainant's STARBUCKS Trademark is globally well known, and that the Complainant has spent huge amounts and efforts for promotion of its Trademark, it is obvious that the Respondent has been very well aware of the reputation of the STARBUCKS Trademark when registering the confusingly similar Disputed Domain Name that completely incorporates the Complainant's Trademark and company name with addition of the term "franchise", which corresponds to the business model used by the Complainant. The Panel considers it is obvious bad faith that the Respondent deliberately chose the Disputed Domain Name to create a likelihood of confusion with the Complainant's STARBUCKS Trademark so as to create a false association or affiliation with the Complainant.

The Panel finds that, taking into consideration all circumstances of this case, the Disputed Domain Name more than likely appears to have been registered and used in bad faith, with well awareness of the Complainant's STARBUCKS Trademark and with the only intention to benefit from the ownership of the Disputed Domain Name, that was likely to confuse the Internet users into thinking they were related to the Complainant.

Moreover, the Panel also notes that the Disputed Domain Name is being used by the Respondent for a fraudulent scheme. Evidence presented by the Complainant show that the Respondent impersonated the Complainant and/or its executives for offering of fraudulent Starbucks franchise licenses for sale by use of email address "[...]@starbucks-franchise.com" incorporating the Disputed Domain Name, and of a fraudulent invoice, as well as counterfeit documents. In accordance with the [WIPO Overview 3.0](#), section 3.4, UDRP Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution (in some such cases, the respondent may host a copycat version of the complainant's website). Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers. Taking into account the above Respondent's use of the Disputed Domain Name such the Respondent's behavior cannot be in any way considered as a good faith.

In addition, according to section 3.1.4 of the [WIPO Overview 3.0](#), UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. The Panel is of the opinion that it is clear that the Respondent, having registered and used the Disputed Domain Name, which is confusingly similar to the Complainant's well-known STARBUCKS Trademark, intended to disrupt the Complainant's business and confuse Internet users seeking for or expecting the Complainant. In view of the absence of any evidence to the contrary and that the Respondent did not file any response to claim otherwise, the Panel concludes that the Respondent has registered and is using the Disputed Domain Name in bad faith.

In accordance with section 3.6. of the [WIPO Overview 3.0](#) there are recognized legitimate uses of privacy and proxy registration services; the circumstances in which such services are used, including whether the respondent is operating a commercial and trademark-abusive website, can however impact a panel's assessment of bad faith. The Panel considers that, taking into account all circumstances of this case, the

Panel considers that the Respondent's use of privacy service constitutes further evidence of bad faith registration and use of the Disputed Domain Name.

In view of the foregoing, the Panel finds that the paragraph 4(a)(iii) of the Policy has been satisfied 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, <starbucks-franchise.com>, be transferred to the Complainant.

/Mariya Koval/

Mariya Koval

Sole Panelist

Date: March 15, 2023