

ADMINISTRATIVE PANEL DECISION

RO v. DHsy DHsy
Case No. D2023-0622

1. The Parties

The Complainant is IRO, France, represented by Fiducial Legal By Lamy, France.

The Respondent is DHsy DHsy, China.

2. The Domain Name and Registrar

The disputed domain name <storeiro.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 February 10, 2023. On February 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 13, 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 (Whois Agent, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 14, 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 February 15, 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 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 9, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on March 16, 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 IRO, a French limited liability company incorporated in November 2010.

The origin of the IRO brand dates back to the year 1999, with the first IRO trademark being filed in France on June 28, 1999. The products under the IRO mark were launched in 2005. Currently, IRO branded goods, such as clothing apparel and accessories, are being distributed worldwide through Complainant's numerous shops and corners in Europe, North America, Asia and Africa.

The Complainant owns trademark registrations for the trademark IRO in many jurisdictions around the world, such as the following:

- the French trademark registration number 99800550 for the word IRO, filed/registered on June 28, 1999, and covering goods in Nice class 25; and
- the International trademark registration number 1309033 for the word IRO, registered on June 29, 2016, and covering goods in Nice classes 18 and 25.

The Complainant promotes its IRO line of products on the website "www.iroparis.com" registered on April 12, 2012.

The disputed domain name <storeiro.com> was registered on August 1, 2022, and at the time of filing the Complaint, it was connected to a commercial website having the same look-and-feel and design as the Complainant's e-commerce website allegedly offering products marked IRO with significant price reductions, displaying the Complainant's IRO trademarks, photographs and product images.

Before commencing the present proceeding, on January 26, 2023, the Complainant send a cease-and-desist letter to the Respondent, Registrar and web hosting company. No satisfactory response was received.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its distinctive and well-known trademark IRO, commercial name, shop sign, and domain name <iroparis.com>; that the Respondent has no rights or legitimate interests in the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

In view of the Respondent's default, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the IRO trademark.

The disputed domain name <storeiro.com> incorporates the Complainant's IRO trademark with an additional term, "store". However, such addition does not prevent a finding of confusing similarity as the Complainant's trademark is clearly recognizable within the disputed domain name.

Numerous UDRP panels have considered that the addition of other terms (whether geographical, descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name does not prevent a finding of confusing similarity, where the relevant trademark is recognizable within the domain name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, it is well established in decisions under the UDRP that the Top-Level-Domain ("TLD") (e.g., ".com", ".shop", ".info", ".net") may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark IRO, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license or authorization whatsoever to use the mark IRO, that the Respondent is not commonly known by the disputed domain name, and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services.

In line with the case law, "where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element". See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has put forward a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent has not replied to the Complainant's contentions and has not come forward with relevant evidence to rebut the Complainant's *prima facie* case.

There is nothing in the record suggesting that the Respondent has ever been commonly known by the disputed domain name or that the Respondent made a *bona fide* offering of goods or services or a legitimate noncommercial use under the disputed domain name.

In fact, at the time of filing the Complaint, the disputed domain name resolved to a commercial website featuring the IRO trademark and logos and offering purportedly discounted products branded IRO for sale.

In certain cases, panels have recognized that resellers or service providers using a domain name containing

the complainant's mark to undertake sales or repairs related to the complainant's goods and services may have a legitimate interest in such domain name. Relevant UDRP panel decisions in relation to this issue are helpfully summarized in section 2.8 of the [WIPO Overview 3.0](#) as follows:

Normally, a reseller, distributor or service provider can be making a *bona fide* offering of goods and services and thus have a legitimate interest in the domain name if its use meets certain requirements. These requirements normally include the actual offering of goods and services at issue, the use of the site to sell only the trademarked goods, the site's accurately and prominently disclosing the registrant's relationship with the trademark holder and the respondent not trying to "corner the market" in domain names that reflect the trademark.

This summary is based on UDRP panel decision *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). At least one condition that is outlined has clearly not been satisfied by the Respondent in this case: at the time of filing the Complaint, on the website under the disputed domain name there was no accurate and clear information regarding the Respondent's rights and its (lack of) relationship with the Complainant and no disclaimer. Further, images of the Complainant's trademarks and official pictures were displayed without any consent from the Complainant, thus generating a likelihood of confusion for the Internet users accessing the Respondent's website and suggesting a false commercial relationship between the website under the disputed domain name and the Complainant.

In addition, and without prejudice to the above, UDRP panels have found that domain names that consist of a trademark plus an additional term cannot constitute fair use if they effectively impersonate or suggest sponsorship or endorsement by the trademark owner. See section 2.5.1 of the [WIPO Overview 3.0](#).

For all these reasons, the Panel finds that the second element of the Policy is established, and the Respondent has no rights or legitimate interests in respect of the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant holds registered trademark rights for IRO since 1999, company name since November 2010 and domain name since April 2012.

The disputed domain name was created in August 2022 and incorporates the Complainant's mark with an additional term "store", which is closely related to the Complainant's business. Furthermore, it is used to provide purportedly IRO-branded goods.

For the above reasons, the Panel finds that the disputed domain name was registered in bad faith, with knowledge of the Complainant, its business and particularly targeting the Complainant's trademark.

The Respondent is using without permission the Complainant's distinctive trademark in order to get Internet traffic on its web portal and to obtain commercial gain from the false impression created for the Internet users with regard to a potential connection with the Complainant. This impression is created particularly by the incorporation of the Complainant's trademark in the disputed domain name, and the content on the website provided thereunder which includes the Complainant's trademarks, logo, and images of official products.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other on-line 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" is evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant's trademark and the website operated under the disputed domain name copied the look-and-feel of the Complainant's website, displays the

Complainant's trademarks, design and product images and is offering very likely counterfeit copies of the Complainant's products, indeed in this Panel's view, the Respondent intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated or related to the Complainant, for its commercial gain.

Further, the Respondent failed to provide a response to the Complainant's allegations and the physical addresses listed in the Whois were inaccurate or incomplete. Along with other circumstances in this case, such facts constitute further signs of bad faith. See section 3.6 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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 <storeiro.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: March 30, 2023