

ADMINISTRATIVE PANEL DECISION

IRO v. Gvch Oncs
Case No. D2023-0932

1. The Parties

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

The Respondent is Gvch Oncs, China.

2. The Domain Name and Registrar

The disputed domain name <irobotique.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 March 2, 2023. On March 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 2, 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 (Domain Protection Services, Inc., United States of America) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 7, 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 March 8, 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 March 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 30, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on April 4, 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 was founded in 1999 and designs and distributes clothing apparel and accessories through numerous shops throughout the world. The Complainant's products are offered under several trademarks, such as "IRO", "IRO.JEANS" and "IRO.LIFE".

The Complainant owns numerous trademarks with the element IRO, *inter alia*, the French trademark registration IRO, No. 99800550 registered on December 17, 1999 and the International trademark registration IRO, No. 1220652 registered on June 3, 2014, which are both registered for goods in International Class 25.

The Complainant also markets its products on the Internet on the website posted under its domain name <iroparis.com>.

The disputed domain name was registered on August 3, 2022.

The disputed domain name directs to an online store, which reproduces the Complainant's trademarks, its photographs, brand line of clothing and is offering for sale products under the Complainant's trademarks.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is confusingly similar to the IRO trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, and the addition of the word "boutique" is not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not known under the disputed domain name and has not been authorized by the Complainant to use its IRO trademark.

The disputed domain name was registered in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its well-known trademark IRO at the time it registered the disputed domain name. The disputed domain name is being used in bad faith because the Respondent's sole intention is to attempt to attract, for commercial gain, or to defraud Internet users to an online store, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. The Complainant contends that the products offered on the Respondent's website are counterfeit.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the 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 has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns trademark registrations for its IRO trademark.

The Panel notes that the disputed domain name incorporates the IRO trademark in its entirety. The addition of the word “boutique” does not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

The addition of the top-level domain “.com” in the disputed domain names is a standard registration requirement and as such is disregarded under the confusing similarity test under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s mark IRO.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states it has not authorized the Respondent to use the trademark IRO and that the Respondent is not known by the disputed domain name. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, also noting the further discussion below, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its IRO trademark is well-known for apparel and accessories.

In the view of the Panel, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant’s well-known trademark, considering that the Respondent posted a website using the Complainant’s trademark and offering clothing items under the disputed domain name. In the circumstances of this case, this is evidence of registration in bad faith.

The Complainant has shown that the disputed domain name directs to an online store which reproduces the Complainant’s trademarks, its photographs, brand line of clothing and is offering for sale (allegedly counterfeit) products under the Complainant’s trademarks, thus misleading consumers into believing that this website would be operated by the Complainant. The Panel thus finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion as to the source, sponsorship or affiliation of its website in the sense of paragraph 4(b)(iv) of the Policy.

The Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

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 <irobotique.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: April 11, 2023