

ADMINISTRATIVE PANEL DECISION

Good Sportsman Marketing, LLC v. Ahdej Yndw, Fhfwu Ydwh
Case No. D2023-2340

1. The Parties

The Complainant is Good Sportsman Marketing, LLC, United States of America (“United States”), represented by D’Ambrosio & Menon, PLLC, United States.

The Respondents are Ahdej Yndw, China and Fhfwu Ydwh, China.

2. The Domain Names and Registrar

The disputed domain names <coldsteel.store> and <knifecoldsteel.com> are registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 30, 2023. On May 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 1, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domain Protection Services, Inc) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 12, 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 amendment to the Complaint on June 22, 2023.

The Center verified that the Complaint together with the amendment to 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 Respondents of the Complaint, and the proceedings commenced on June 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 13, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on August 1, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on August 7, 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

According to information in the Complaint, the Complainant is a United States company that has used the trademark COLD STEEL in connection with knives since at least as early as 1984. The Complainant has registered the United States trademark COLD STEEL having registration number 4,441,514, registered on November 26, 2013.

The disputed domain names were registered on June 18, 2023. The disputed domain names resolve to websites which appear to offer knives for sale, and display the Complainant's COLD STEEL brand and logo.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain names are identical or confusingly similar to its registered trademark, COLD STEEL, in which the Complainant has rights, as the Complainant's trademark is clearly recognizable within the disputed domain names.

As regards the second element, the Complainant argues that the Respondents have no rights or legitimate interests in respect of the disputed domain names. The Complainant's use and registration of its COLD STEEL trademark predates registration of the disputed domain names. The Respondents have not obtained any authorization or license from the Complainant to use the COLD STEEL trademark in connection with knives and other goods registered by the Complainant. The disputed domain names mislead consumers into believing a false affiliation with the Complainant.

With respect to the third element, the Complainant argues that by using the disputed domain names, the Respondents have intentionally disrupted the business of the Complainant. Additionally, by using the disputed domain names, the Respondents attempt to attract for commercial gain, Internet users to the Respondents' websites or other online locations, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondents' websites or locations or of a product or service on the Respondents' website or locations.

B. Respondents

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

6. Discussion and Findings

6.1 Preliminary issue: Consolidation of Domain Names and of Respondents

The Panel will first deal with the question of whether the different domain name disputes should be consolidated in single proceedings. The consolidation of multiple domain name disputes under paragraph 3(c) or 10(e) of the Rules may be appropriate where the particular circumstances of a case indicate that common control is being exercised over the disputed domain names or the websites to which the disputed domain names resolve and the panel, having regard to all of the relevant circumstances, determines that consolidation would be procedurally efficient and fair and equitable to all parties.

According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2, "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the

consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario”.

In the present case, the Panel finds that the consolidation of the domain name disputes is justified as, *inter alia*: (i) the disputed domain names were registered with the same registrar; (ii) the disputed domain names were registered on the same day at close intervals of each other, (iii) the disputed domain names are similar in construction in that they incorporate the Complainant’s trademark, and one disputed domain name has an additional term, (iv) the websites to which the disputed domain names resolve are similar, (v) the contact details disclosed by the Registrar are similar (same contact address, same telephone number).

The Panel finds that the consolidation is fair to the Parties, and the Respondents have been given an opportunity to object to consolidation through the submission of pleadings to the Complaint, but have chosen not to try to rebut the consolidation (see [WIPO Overview 3.0](#), section 4.11.2). Based on the Complaint, the Panel finds that it is more likely than not that the disputed domain names are in common control of one entity or person; hence, the Panel grants the consolidation for the disputed domain names (and will refer to the Respondents as the “Respondent”).

6.2 Substantive Issues

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the [WIPO Overview 3.0](#).

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are 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 respect of the disputed domain names, and (iii) the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, the Complainant must prove that it has rights to a trademark, and that the disputed domain names are identical or confusingly similar to that trademark. This first element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

The Complainant has provided evidence of its rights in the COLD STEEL trademark by providing evidence of its trademark registration.

As regards the second limb of the first element, the test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain names. It is well established that the generic Top-Level Domain (“gTLD”) may be ignored when assessing the confusing similarity between the disputed domain names and the Complainant’s trademarks as they are viewed as a standard registration requirement. See section 1.11.1 of the [WIPO Overview 3.0](#).

The disputed domain name <coldsteel.store> incorporates the COLD STEEL trademark in its entirety without any addition. It is, therefore, identical to the COLD STEEL trademark in which the Complainant has rights. The disputed domain name <knifecoldsteel.com> consists of the COLD STEEL trademark, in addition to the term “knife”. The addition of “knife” does not prevent a finding of confusing similarity with the Complainant’s trademark, which is recognizable in the disputed domain name. The fact that a domain name wholly incorporates a complainant’s trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other words to such trademarks. The addition of another term (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

The Panel finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain names. Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests in the disputed domain names.

As established by previous UDRP panels, it is sufficient for the complainant to make a *prima facie* case demonstrating that the respondent has no rights or legitimate interests in the disputed domain names in order to place the burden of production of evidence on the respondent (see section 2.1 of the [WIPO Overview 3.0](#)). In the present case, the Complainant has proved it holds rights over the trademark COLD STEEL, and claims that the Respondent has no legitimate reason to acquire the disputed domain names. There is no evidence that the Respondent is using the disputed domain names in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain names within the meaning of paragraphs 4(c)(i) and (iii) of the Policy.

The disputed domain names resolve to online retail shops reproducing the Complainant's COLD STEEL trademark and purportedly offering for sale the Complainant's knife products. As discussed below, such use does not confer in the Panel's view rights or legitimate interests on the Respondent.

Under certain circumstances, UDRP panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a *bona fide* offering of goods and services and thus have a legitimate interest in such domain name (see [WIPO Overview 3.0](#), section 2.8.1), if certain requirements are met. As outlined in the "Oki Data test", such requirements normally include the respondent actually be offering the goods or services at issue, the respondent using the site to sell only the trademarked goods or services, the website accurately and prominently disclosing the registrant's relationship with the trademark holder. Also, the respondent must not try to "corner the market" in domain names that reflect the trademark. See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). In this case the websites to which the disputed domain names resolve do not disclose the relationship or lack of relationship with the trademark owner. Therefore, the Panel considers that the above-mentioned criteria are not met in this case and the disputed domain names have not been used for a *bona fide* offering of goods in the meaning of the Policy.

Also, there is no evidence that the Respondent is commonly known by the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy.

The Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent failed to rebut that *prima facie* case because the Respondent did not respond to the Complainant's contentions.

Furthermore, the nature of the disputed domain names is inherently misleading, and cannot constitute a fair use as they effectively impersonate or suggest sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(ii) of the Policy, the Complainant must prove that the disputed domain names were registered and are being used in bad faith.

According to the un rebutted assertions of the Complainant, its COLD STEEL trademark was used in commerce well before the registration of the disputed domain names. The disputed domain names are

identical or confusingly similar to the Complainant's trademarks. Also, the disputed domain names resolve to websites offering goods similar to the Complainant's goods and dispel the Complainant's trademark and logo. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademarks at the registration date of the disputed domain names.

As regards the use, the disputed domain names direct Internet traffic to websites displaying the COLD STEEL trademarks and purportedly offering for sale the Complainant's various products. Therefore, the Panel considers that the Respondent intentionally tried to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation of its websites.

With the evidence on file, the Panel finds that the disputed domain names were registered and are being used in bad faith, and that the requirements of paragraph 4(a)(iii) of the Policy are satisfied.

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 names <coldsteel.store> and <knifecoldsteel.com> be transferred to the Complainant.

/Mihaela Maravela

Mihaela Maravela

Sole Panelist

Date: August 17, 2023