

ADMINISTRATIVE PANEL DECISION

Deutz AG v. shi lu yi
Case No. D2023-2719

1. The Parties

The Complainant is Deutz AG, Germany, represented by Bardehle Pagenberg Partnerschaft mbB, Germany.

The Respondent is shi lu yi, Philippines.

2. The Domain Name and Registrar

The disputed domain name <deutzfdj.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2023. On June 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 27, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 28, 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 July 3, 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 Respondent of the Complaint, and the proceedings commenced on July 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 27, 2023.

The Center appointed James Wang as the sole panelist in this matter on August 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, founded in 1864, is a well-known engine manufacturer based in Cologne, Germany.

The Complainant manufactures and distributes diesel engines and engine components for agricultural machinery, marine propulsion, automobiles, and construction equipment.

The Complainant owns multiple international trademark registrations for DEUTZ, including but not limited to:

- International Trademark Reg. No. 158321, registered on December 17, 1951;
- International Trademark Reg. No. 174094, registered on January 21, 1954; and
- International Trademark Reg. No. 452600, registered on May 6, 1980.

The Complainant owns and operates the domain name <deutz.com>, which was registered on April 18, 1996.

The disputed domain name was registered on April 25, 2023, and resolved to a website containing pornographic content and links to various third party websites, including pornography and online gambling.

5. Parties' Contentions

A. Complainant

The Complainant contended as follows:

The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name was registered and is being used in bad faith.

The Complainant requested that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (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 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 Complainant has provided evidence that it has obtained numerous DEUTZ trademark registrations.

The disputed domain name incorporates the entirety of the DEUTZ trademark. As the DEUTZ trademark is recognizable within the disputed domain name, the disputed domain name is confusingly similar to the Complainant's DEUTZ trademark. The addition of the letters "fdj" into the disputed domain name does not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

The Panel therefore finds that the Complaint has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, 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 [WIPO Overview 3.0](#), section 2.1.

Mere registration of a domain name does not give the owner a right or legitimate interest in respect of the domain name.

According to the Complaint, no license or authorization of any kind has been granted by the Complainant to the Respondent to use DEUTZ mark. The Complainant has not found that the Respondent has any registered trademarks, trade names, or personal names corresponding to DEUTZ mark or the disputed domain name. The disputed domain name resolved to a website containing pornographic content and links to commercial websites offering online gambling and pornography. There are no rights or legitimate interests to use the Complainant’s mark for this kind of content in the disputed domain name.

The Respondent submitted no response or evidence to rebut the allegations of the Complainant, or to establish that the Respondent is making a *bona fide* use, or a legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests, and the Respondent failed to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the Complaint has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant has provided evidence that the Complainant is a well-known engine manufacturer and that its DEUTZ trademark has been registered for more than 70 years. A simple online search could reveal the Complainant and its DEUTZ trademark.

Given the above, it would be inconceivable that the Respondent registered the disputed domain name without knowledge of the Complainant or the DEUTZ trademark at the time of the registration. In line with prior panels, 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. [WIPO Overview 3.0](#), section 3.1.4.

Meanwhile, the Complainant’s evidence shows that the disputed domain name resolved to a website containing pornographic content and links to commercial websites. The Panel agrees with the Complainant’s contention that the linking of the disputed domain name with a pornographic website, and including third party links to similar websites or online gambling, will result in the tarnishing of the Complainant’s DEUTZ trademark. The Panel is of the view that the Respondent is using the disputed domain name in bad faith.

The Panel therefore finds that the Complaint has satisfied paragraph 4(a)(iii) 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 <deutzfdj.com> be transferred to the Complainant.

/James Wang/

James Wang

Sole Panelist

Date: August 30, 2023