

ADMINISTRATIVE PANEL DECISION

Sipchem Europe S.A. v. saifu lee zhenghao
Case No. D2023-2863

1. The Parties

The Complainant is Sipchem Europe S.A., Switzerland, represented by Watson Farley Williams (Middle East) LLP, United Arab Emirates.

The Respondent is saifu lee zhenghao, China.

2. The Domain Name and Registrar

The disputed domain name <stpchem.com> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 5, 2023. On July 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 5, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 18, 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 July 19, 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 July 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 17, 2023.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on September 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 following facts are undisputed.

The Complainant is petrochemical manufacturer based in Lutry, Switzerland. The Complainant functions as a trading and marketing arm of Sahara International Petrochemical Company, a Saudi Arabian chemical manufacturing company.

The Complainant is the owner of an international trademark registration for SIPCHEM (word mark), with registration No. 1470136 and a registration date of April 18, 2019, for goods and services in classes 1, 17, 22, and 35, designating, *inter alia*, Australia, China, the European Union, and the United States of America (the "Trademark").

The Domain Name was registered on April 19, 2023, and resolves to a website (the "Website") that purports to offer products for sale that closely relate to the products for which the Trademark is registered and being used for, *i.e.* polymers and chemicals.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, the Complainant contends that the Domain Name confusingly similar to the Trademark in which the Complainant has rights. More specifically, the Domain Name comprises of the Trademark in its entirety, merely substituting the letter 'i' with the letter 't'.

Moreover, the Respondent has no rights or legitimate interest in the Domain Name, whereas the Respondent is not commonly known by the Domain Name. Even more so, because the Domain Name does not in any way correspond with the name of the Respondent. In addition to this, the Respondent has not secured any registered rights, such as a trademark registration in regards to the Domain Name.

The Domain Name has been registered and used in bad faith. The Respondent registered the Domain Name primarily for the purpose of disrupting the business of competitor. In addition to this, by allegedly selling the same type of product, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its Website by creating a likelihood of confusion with the Trademark.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Domain Name consists of the Trademark in its entirety and solely substitutes the letter "i" with the letter "t". Therefore, the Trademark is clearly recognizable in the Domain Name and the misspelling as such does not prevent a finding of confusing similarity between the Domain Name and the Complainant's Trademark. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a Domain Name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that 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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- The Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name, even if the Respondent has acquired no trademark or service mark rights. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- The Respondent is not making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the Trademark. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- The record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

Further adding to the above, the Panel finds that the Respondent is not making use of the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods and services.

To the contrary, in the absence of a response, the Panel finds that the Respondent seems to be using the Website to offer products for sale that clearly relate to the products for which the Trademark is registered and being used for. By doing so, the Respondent is using the Domain Name in order to attempt to attract, for commercial gain, Internet Users to its Website by creating a likelihood of confusion with the Trademark and/or the Complainant as to the source, sponsorship, affiliation, or endorsement of the Website.

Hence, the Panel finds that the Respondent is not making use of the Domain Name in connection with a *bona fide* offering of goods or services or for noncommercial or fair use purposes. As such, the Panel finds that the Respondent has no rights or legitimate interests in relation to the Domain Name.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel considers that the record of this case reflects that:

- The Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor. Paragraph 4(b)(iii) of the Policy, and [WIPO Overview 3.0](#), section 3.1.3.
- The Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

In the present case, the Panel notes that the Domain Name comprises of the Trademark in its entirety with what, without any explanation by the Respondent to the contrary, can be understood as a clear misspelling and/or typo. Moreover, the Website to which the Domain Name resolves offers products that clearly relate to the products that are being offered by the Complainant under the Trademark. In light of the aforementioned and lacking a Response, the Panel finds that the Respondent must have been aware of the existence of the Complainant's activities and rights at the time that the Respondent registered the Domain Name.

As such, the Respondent has registered and is using the Domain Names to intentionally attract Internet users for commercial gain to its website by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation or endorsement of the Website.

Certainly lacking a Response, the Panel finds that there is no other plausible explanation than that the Respondent was aware of the existence of the Complainant's rights and activities at the time the Respondent registered the Domain Name.

Furthermore, the Panel takes into consideration that the Respondent has provided false and/or incomplete information when registering the Domain Name. Additionally, the Respondent has been hiding behind a privacy shield. In accordance with section 3.6 of the [WIPO Overview 3.0](#), this also supports a finding of registration and or use in bad faith.

Having reviewed the record, the Panel finds the Respondent's registration and use of the Domain Name constitutes bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 Domain Name, <stpchem.com> be cancelled.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: September 18, 2023