

ADMINISTRATIVE PANEL DECISION

Multiplan Empreendimentos Imobiliários S.A. v. Vladimir Ivanov
Case No. D2023-3764

1. The Parties

The Complainant is Multiplan Empreendimentos Imobiliários S.A., Brazil, represented by Ouro Preto Advogados, Brazil.

The Respondent is Vladimir Ivanov, Serbia.

2. The Domain Names and Registrars

The disputed domain names <parkshoppingsaocaetano.com>, <shoppinganaliafranco.com>, and <shoppingvilaolimpia.com> (the “Domain Names”) are registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 8, 2023. On September 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On the same date, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 September 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 4, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on October 6, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is one of the largest companies in Brazil's shopping center industry with more than 6,000 stores and around 190 million visits a year.

The Complainant has registered trademarks for SHOPPING VILA OLÍMPIA (Brazilian Trademark registration number 900263431, registered on July 22, 2014), PARKSHOPPINGSÃOCAETANO (Brazilian Trademark registration number 830413847, registered on August 27, 2019) and SHOPPINGANÁLIAFRANCO (Brazilian Trademark registration number 825728061, registered on July 3, 2007). The Complainant also has registered domain names, such as <shoppingvilaolimpia.com.br>, <parkshoppingsaocaetano.com.br>, and <shoppinganaliafranco.com.br>.

The Domain Names were registered on October 1, 2022. At the time of drafting the Decision, the Domain Names resolved to registrar parking page with pay-per-click links.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Names incorporate the Complainant's trademarks and are both identical and confusingly similar to the Complainant's trademarks.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Names. The Respondent has not made any demonstrable preparations to use the Domain Names in connection with a *bona fide* offering of goods or services. The Complainant argues, but has not documented, that the Respondent has used the Domain Names for websites with pornographic content.

The Complainant argues that the Respondent has registered or acquired the Domain Names primarily for the purpose of selling, renting them to them for a disproportionate amount of money, and documents offers for sale for the Domain Names. Therefore, the Complainant contends that the Domain Names were registered and are being used in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established that it has rights in the trademarks SHOPPING VILA OLÍMPIA, PARKSHOPPINGSÃOCAETANO, and SHOPPINGANÁLIAFRANCO. The Domain Names incorporate the Complainant's trademarks, with small alterations on the Portuguese letters as to the letters "Í" and "Ã". The alterations do not prevent a finding of confusing similarity. See *Id.* For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"). See [WIPO Overview 3.0](#), section 1.11.1.

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 disputed 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. See [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 Names. 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 Names.

The Complainant has contended that the Domain Names previously resolved to pornographic content, but failed to provide corroborating evidence due to the nature of such content. While Panels will not typically rely on unsubstantiated conclusory allegations, the Panel notes that the case file provides the Panel with sufficient information to reach a conclusion. For instance, the Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Names as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Names or a name corresponding to the Domain Names in connection with a *bona fide* offering of goods or services. Further, given the nearly identical nature of the Domain Names as compared to the Complainant’s trademark, such composition carries a risk of implied affiliation that renders any fair use implausible under the circumstances of this proceeding.

Lastly, given the current use, the Panel notes that previous UDRP panels have found that the use of a domain name to host a parked page comprising pay-per-click links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9. The Respondent’s use of the Domain Names is evidence of bad faith, see below.

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.

The composition and use of the Domain Names make it clear that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Names. The Respondent has failed to provide any evidence of actual or contemplated good-faith use of the Domain Names. The Respondent appears to have provided fake or incomplete contact data, seeing as the courier was unable to deliver the Center’s written communication to the details disclosed by the Registrar for the Respondent, which reinforces an inference of bad faith. Regardless of the use, be it the unsupported allegation of pornographic content or the current pay-per-click links, the Respondent’s use of the Domain Names is evidence of bad faith registration and use pursuant to paragraph 4(b)(iv) of the Policy.

For the reasons set out above, the Panel concludes that the Domain Names were registered and are being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. 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 the Domain Names <parkshoppingsaocaetano.com>, <shoppinganaliafranco.com>, and <shoppingvilaolimpia.com> to be cancelled.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: October 13, 2023