

ADMINISTRATIVE PANEL DECISION

Surya Carpet, Inc. v. surya narayan maurya
Case No. D2023-4087

1. The Parties

Complainant is Surya Carpet, Inc., United States of America ("United States"), represented by The Seigel Law Firm LLC, United States.

Respondent is surya narayan maurya, India.

2. The Domain Name and Registrar

The disputed domain name <suryacarpets.com> ("Domain Name") is registered with Key-Systems GmbH (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 28, 2023. On September 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 2, 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 (On behalf of suryacarpets.com OWNER) and contact information in the Complaint. The Center sent an email communication to Complainant on October 2, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on October 2, 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 Respondent of the Complaint, and the proceedings commenced on October 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2023. Respondent sent email communications to the Center on October 2, 2023, October 10, 2023, October 11, 2023, October 13, 2023, October 16, 2023, and October 24, 2023.

The Center appointed Marina Perraki as the sole panelist in this matter on November 22, 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

Complainant, Surya Carpet, Inc., commercializes in carpets, rugs, furniture and related goods under the mark SURYA since at least as early as 1995. Complainant owns the United States trademark registration No. 4327716, SURYA (word), filed on August 22, 2012, and registered on April 30, 2013, for goods in international classes 16, 20, 24 and 27.

The Domain Name was registered on February 3, 2023, and at the time of filing of the Complaint it redirected to a website at “www.suryarugs.in” (the “Website”) using the SURYA mark to advertise and sell carpets and rugs under the name Surya Rugs. Subsequently it lead to a Hostinger parking page and currently it leads to a Hostinger default page.

5. Parties’ Contentions

A. Complainant

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

B. Respondent

Respondent did not submit a formal response. On October 2, 2023, October 10, 2023, October 11, 2023, October 13, 2023, October 16, 2023, and October 24, 2023, Respondent sent email communications to the Center enquiring clarification about the Complaint, asking for suspension to explore settlement (a request which was rejected by Complainant), asking for Complainant’s contact email to contact them directly, stating that Respondent is not using the Domain Name and that Complainant provided a wrong screenshot of a website which does not match the Domain Name.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements, which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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 Complainant’s trademark and the disputed 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 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 Panel finds the entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term “carpet” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain (“gTLD”) “.com” is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted 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.

Nor is there any indication on the record that Respondent has been commonly known by the Domain Name, despite the fact that the Domain Name incorporates Respondent’s first name Surya, since Respondent has not claimed that he is commonly known as “surya carpet” nor that he sells carpets. The word “carpets” furthermore is indicative of Complainant’s business. As per Complainant, Respondent was not authorized to register the Domain Name.

Respondent has not demonstrated any preparations to use or has not used the Domain Name or a trademark corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, Respondent confirms that he has never put the Domain Name into use.

Last, the Panel considers the fact that as Complainant demonstrated that the Domain Name redirected to the Website offering competing goods to those of Complainant, namely carpets and rugs.

The above, along with the fact that the Domain Name was registered with a privacy shield service at the time of filing of the Complaint, speaks against any rights or legitimate interests held by Respondent (*Ann Summers Limited v. Domains By Proxy, LLC / Mingchun Chen*, WIPO Case No. [D2018-0625](#); *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes &*

Records, WIPO Case No. [D2017-2533](#)).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Based on the available record, the Panel finds the second element of the Policy has not 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a formal response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the Domain Name, and finds that in the circumstances of this case, the passive holding of the Domain Name does not prevent a finding of bad faith under the Policy.

Last, the Panel considers a) the inclusion of the word "carpet" in the Domain Name, namely a word which indicates the field of business of Complainant and suggests that Respondent knew about it, b) the fact that Respondent does not claim himself that he provides carpet related goods or services, c) the fact that Complainant's corporate name is Surya Carpet, Inc. namely practically identical to the Domain Name, d) the fact that the Domain Name redirected to a Website offering competing goods to those of Complainant, and e) the apparent concealment of the Domain Name holder's identity through use of a privacy shield at the time of filing the complaint, all to be further indicative of bad faith (*BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. [D2016-0364](#)).

Based on the available record, the Panel finds that Complainant has established the third element 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 Domain Name <suryacarpets.com> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: December 6, 2023