

ADMINISTRATIVE PANEL DECISION

Societe Francaise Assainissement SFA v. Host Master, 1337 Services LLC
Case No. D2023-5389

1. The Parties

The Complainant is Societe Francaise Assainissement SFA, France, represented by Cabinet IPSILON, France.

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Name and Registrar

The disputed domain name <sfa-sanibroyeur.com> (“Disputed Domain Name”) is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 28, 2023. On January 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 2, 2024, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 3, 2024, 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 January 4, 2024.

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 January 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 31, 2024.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on February 7, 2024. 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 is a simplified joint-stock company engaging in the global provision of sanitary and pumping products, including its macerator pump product “the Sanibroyeur” (“Sanibroyeur Product”) launched in 1958. The Complainant owns various word and figurative trademarks for or containing the terms “SANIBROYEUR” (the “Complainant’s SANIBROYEUR Trademark”) and “SFA” (the “Complainant’s SFA Trademark”) (collectively, the “Complainant’s Trademarks”) around the globe.

The relevant trademark registrations include, inter alia, International Trademark Registration No. 660737 for SANIBROYEUR registered on September 16, 1996 in Class 7, designating the Benelux Office for Intellectual Property, Switzerland, China, Germany, Poland, Romania and the Russian Federation; French Trademark Registration No. 1248372 for SANIBROYEUR registered on March 9, 1984 in Class 7; International Trademark Registration No. 537230 for SFA registered on April 10, 1989 in Classes 7 and 11, designating, inter alia, Singapore, Austria, the Benelux Office for Intellectual Property, Switzerland, Germany, Spain, and Italy; and European Union Trademark Registration No. 003612173 for SFA registered on April 28, 2005 in Classes 3, 7 and 11.

The Complainant’s SFA Trademark is fully incorporated in its domain name <sfa.fr> which was registered on November 6, 1997, and resolves to the Complainant’s website (“Complainant’s Website”). The Complainant’s SANIBROYEUR Trademark is also fully incorporated in the Complainant’s domain name <sanibroyeur.info> which was registered on February 1, 2007. Apart from these, the Complainant also owns the following domain names featuring the Complainant’s SFA Trademark, including inter alia, <sfa.ru>, <sfa.pt>, <sfa-japan.jp>, <sfa.tw> and <sfa.ua>.

The Disputed Domain Name was registered by the Respondent on April 14, 2023. At the time of filing of the Complaint and at the time of the decision, the Disputed Domain Name resolved to a website (the “Respondent’s Website”) displaying the Complainant’s Trademarks and had an overall high visual similarity to the Complainant’s Website, including various models of the Sanibroyeur Product and other similar products and services.

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 Disputed Domain Name.

Notably, the Complainant contends that:

- (a) The Disputed Domain Name is at least confusingly similar to the Complainant’s Trademarks. The Complainant’s Trademarks are each perfectly recognizable. The only differences between the Disputed Domain Name and the Complainant’s Trademarks are a hyphen and the generic Top-Level Domain (“gTLD”) “.com”, which may be disregarded.
- (b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent has not obtained any licence or authorization from the Complainant to use the Complainant’s Trademarks as part of a domain name or otherwise. The Respondent has not used or made preparations to use the Disputed Domain Name in relation to a bona fide offering of goods or services.

Moreover, the Disputed Domain Name appears to be registered by the Respondent for the fraudulent purpose of impersonating the Complainant and/or misleading Internet users that the Disputed Domain Name is linked to the Complainant. This does not constitute a bona fide offering of goods or services or legitimate noncommercial or fair use of the Disputed Domain Name, and the burden is on the Respondent to establish any rights or legitimate interests in the Disputed Domain Name.

- (c) Both the Respondent's registration and use of the Disputed Domain Name establish the Respondent's bad faith. Given the publicity and reputation of the SFA brand and the Sanibroyeur Product, as well as the significantly earlier registrations of the Complainant's Trademarks, the Respondent must have been or should at least have been fully aware of the existence of the Complainant's rights in the Complainant's Trademarks when the Respondent registered and used the Disputed Domain Name. The Respondent intentionally chose to attract Internet users to the Respondent's Website by impersonating the Complainant, which does not constitute good faith use. It is difficult to conceive of any future use of the Disputed Domain Name that would amount to good faith use, given the lasting reputation of the Complainant's Trademarks.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 by the Respondent 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 the Complainant's Trademarks and the Disputed Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of two trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's Trademarks are reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the Complainant's Trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is well established that the gTLD, ".com" in this case, may be disregarded. See section 1.11.1 of the [WIPO Overview 3.0](#).

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.

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 the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed 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 Disputed Domain Name such as those enumerated in the Policy or otherwise.

The Respondent’s failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name.

The Respondent would likely not have adopted the Complainant’s Trademarks if not for the purpose of creating an impression that the Disputed Domain Name is associated with, or originates from, the Complainant.

There is no evidence to suggest that the Respondent’s use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name, is in connection with a bona fide offering of goods or services or be regarded as legitimate noncommercial or fair use.

Panels have held that the use of a domain name for illegal activity, such as in this case the impersonation or passing off by the Respondent as the Complainant using the Complainant’s Trademarks, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 notes that it is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that it has incorporated the Complainant’s Trademark in its entirety. The Respondent intentionally registered the Disputed Domain Name to attract Internet users to the Respondent’s Website for commercial gain by creating a likelihood of confusion with the Complainants’ Trademark. See section 3.1 of the [WIPO Overview 3.0](#). Also, as discussed above, the Respondent lacks any rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)). Further, the Respondent failed to respond to the Complainant’s contentions and has provided no evidence of its actual or contemplated good faith use of the Disputed Domain Name.

Panels have held that the use of a domain name for illegal activity, such as in this case, the impersonation or passing off as the Complainant using the Complainant's Trademarks, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

Lastly, the Respondent has a history of cybersquatting. In *Haringey London Borough Council v. Host Master, 1337 Services LLC*, WIPO Case No. [D2023-1321](#), the panel found that the Respondent is a "repeat offender" who has engaged in "a pattern of bad faith registration in at least twenty cases". Since 2018, transfer has been ordered against the Respondent in multiple UDRP proceedings, indicating the Respondent's pattern of bad faith.

Accordingly, the Panel finds that the 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 Disputed Domain Name <sfa-sanibroyeur.com> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: February 21, 2024