

ADMINISTRATIVE PANEL DECISION

HESTRA-Handsken AB v. gu chao

Case No. D2024-0104

1. The Parties

The Complainant is HESTRA-Handsken AB, Sweden, represented by Advokatbyrå Gulliksson AB, Sweden.

The Respondent is gu chao, China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 11, 2024. On January 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 12, 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 12, 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 amendment to the Complaint in English on January 15, 2024.

On January 12, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On January 15, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Chinese and English of the Complaint, and the proceedings commenced on January 22, 2024. In accordance with

the Rules, paragraph 5, the due date for Response was February 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 12, 2024.

The Center appointed Joseph Simone as the sole panelist in this matter on February 16, 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, HESTRA-Handsken AB, is a developer and manufacturer of gloves and accessories, and is one of the world's leading producers of gloves for skiing, recreation and leisure. The company was founded in 1936 in Sweden. In 2021, the Complainant produced over two million pairs of gloves.

The Complainant has an extensive global portfolio of HESTRA trade marks, including the following:

- International Trade Mark Registration for HESTRA No. 928592, in Classes 9, 18, 25 and 28, registered on January 23, 2007, designating Australia, China, Iceland, Japan, Norway, Russia Federation, Switzerland, Ukraine and United State of America;
- United States of America Trade Mark Registration for HESTRA No. 2888727 in Classes 25 and 28, registered on September 28, 2004; and
- China Trade Mark Registration for HESTRA No. 979947 in Class 28, registered on April 14, 1997.

The disputed domain name was registered on January 9, 2024.

According to evidence provided by the Complainant, at the time of filing the Complaint, the disputed domain name resolved to a website prominently displaying the HESTRA trade mark as well as the Complainant's original promotional descriptions and images. The website purported to sell products that appear to be Hestra's at highly discounted prices. The overall look and feel of the website closely resembled that of the Complainant's official website.

At the time of issuance of this decision, the disputed domain name resolved to an inactive page.

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.

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's HESTRA trade marks, and that the addition of the generic Top-Level Domain ("gTLD") ".com" does not affect the analysis as to whether the disputed domain name is identical or confusingly similar to the Complainant's trade marks.

Furthermore, the Complainant argues that the addition of the term "gloves" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's HESTRA mark.

The Complainant asserts that it has not authorized the Respondent to use the HESTRA mark, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services.

The Complainant also claims there is no evidence indicating that the Respondent has any connection to the HESTRA mark in any way, and that there is no plausible good-faith reason for the Respondent to have registered the disputed domain name. The Complainant therefore concludes that the registration and any use of the disputed domain name whatsoever must be in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including:

- English is an internationally recognized language;
- There is no connection whatsoever between the actual use of the infringing website and the Chinese language, as the website is primarily in the Swedish language, with some key elements presented in the English language; and
- It is important to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes, and deciding to conduct the proceeding in the Chinese language would impose an undue burden for the Complainant.

The Respondent was notified in both Chinese and English of the language of the proceeding and the commencement of the proceeding and did not comment on the language of the proceeding or submit any response.

In exercising its discretion to use a language other than that of the registration agreement, the Panel must exercise judiciously and in the spirit of fairness take into account all relevant circumstances of the case, including the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Considering the circumstances of this case, the Panel determines that the language of the proceeding shall be English, and as such, the Panel has issued this decision in English. The Panel further finds that such determination should not create any prejudice to either Party and should ensure that the proceeding takes place with due expedition.

6.2 Substantive Issues

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 disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has demonstrated its rights in the HESTRA trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Disregarding the gTLD “.com”, the disputed domain name incorporates the Complainant’s trade mark HESTRA in its entirety. Thus, the disputed domain name should be regarded as confusingly similar to the Complainant’s HESTRA trade mark. The inclusion of the hyphen and the additional term “gloves” does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. ([WIPO Overview 3.0](#), section 1.8.)

The Panel therefore finds that the Complainant satisfies the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the HESTRA trade mark and in showing that the disputed domain name is confusingly similar to its mark.

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 challenging 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 evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Complainant asserts that it has not authorized the Respondent to use its trade marks and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Thus, the Complainant has established its prima facie case with satisfactory evidence.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that he enjoys rights or legitimate interests in the disputed domain name. As such, the Panel concludes that the Respondent has failed to rebut the Complainant’s prima facie showing of the Respondent’s lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Therefore, there is no evidence adduced to show that the Respondent, prior to the notice of the dispute, has used or has demonstrated its preparation to use the disputed domain name in connection with a bona fide offering of goods or services. There is also no evidence adduced to show that the Respondent has been commonly known by the disputed domain name or the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

Accordingly, and based on the Panel’s findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

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 states that any of the following circumstances in particular, but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt 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 website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. Other circumstances may also 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)

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

In the present case, when the Respondent registered the disputed domain name, the HESTRA trade marks were already widely known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name.

The Respondent has provided no evidence to justify his choice of the term "hestra" in the disputed domain name. In light of the foregoing, and considering that the website to which the disputed domain name previously resolved purported to offer the Complainant's goods, it would be unreasonable to conclude that the Respondent - at the time of the registration of the disputed domain name - was unaware of the Complainant's trade mark.

The Complainant's registered trade mark rights in HESTRA for its products and services predate the registration date of the disputed domain name. A simple online search (such as via Google or Baidu) for the term "hestra" would have revealed that it is a world-renowned brand.

The Panel is therefore of the view that the Respondent registered the disputed domain name with full knowledge of the Complainant's trade mark rights.

In light of the foregoing facts, there are no plausible good faith reasons for the Respondent to have registered the disputed domain name, especially considering the relevant circumstances where the Respondent has used the disputed domain name for a website which imitates the Complainant's own website, and purports (without due authorization) to offer products that appeared to be Hestra's at significantly reduced prices. The Panel finds in these circumstances that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source,

sponsorship, affiliation, or endorsement of its website or of the products on its website (paragraph 4(b)(iv) of the Policy).

While the disputed domain name does not currently resolve to an active website, having reviewed the available record, the Panel finds the current non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. See [WIPO Overview 3.0](#), section 3.3.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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 <hestra-gloves.com> be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: March 1, 2024