

ADMINISTRATIVE PANEL DECISION

Promod v. Jerry Anderson
Case No. D2024-0196

1. The Parties

The Complainant is Promod, France, represented by Dreyfus & associés, France.

The Respondent is Jerry Anderson, United States of America (“U.S.”).

2. The Domain Name and Registrar

The disputed domain name <onlinepromod.shop> (the “Domain Name”) is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 17, 2024. On January 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 19, 2024, 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 (Not disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 22, 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 the same day.

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 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 15, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on February 21, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a large French fashion retailer specialized in clothing and women's accessories. It was founded in 1975. Since founded, the Complainant has acquired goodwill and renown. By 1990, the Complainant was established in Europe and expanded to the Middle East. In 2006, the brand was introduced in Asia. In 2013, the brand was introduced in the U.S. and in the United Kingdom. The Complainant had a turnover of more than EUR 1 billion in 2012. It has today more than 1,066 stores in 52 countries.

The Complainant owns numerous PROMOD trademark registrations around the world, such as the U.S. trademark Reg. No. 6376084 (dated June 8, 2021).

The Complainant operates domain names to promote its services, such as <promod.com> (registered on December 23, 1996) and <promod.fr> (registered on March 24, 1996).

The Domain Name was registered on May 1, 2023. The Complainant has documented that the Domain Name has resolved to a parking page displaying commercial links directly targeting the Complainant's field of activity. Following the Complainant's cease and desist letter, the Domain Name redirected to various fraudulent pages including gambling and sports betting pages. At the time of drafting the Decision, the Domain Name resolved to a blocked webpage.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and contends that it is well-known. The Domain Name is confusingly similar to the Complainant's trademark as the Domain Name incorporates the entire trademark. The additional term "online" is insufficient to avoid any likelihood of confusion.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Complainant asserts that the Respondent is not affiliated with the Complainant. There is no evidence of the Respondent being commonly known by the Domain Name. The Respondent has not made use of the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. The Respondent's use is not bona fide offering of goods or services.

The Complainant believes it is implausible that the Respondent was unaware of the Complainant when the Respondent registered the Domain Name. The Respondent's use of the Domain Name – to intentionally attract Internet users to his website by creating a likelihood of confusion with the Complainant's mark – is further evidence of bad faith. Moreover, the Complainant has submitted supporting documents showing that the Respondent is a cybersquatter subject of a number of UDRP proceedings.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

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.

The Complainant has established that it has rights in the trademark PROMOD. The Domain Name incorporates the Complainant's trademark with the addition of "online". The addition does not prevent a finding of confusing similarity between the Domain Name and the trademark. For the purpose of assessing 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.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which a 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. [WIPO Overview 3.0](#), section 2.1.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. The Respondent's use of the Domain Name is evidence of bad faith, see below. Additionally, the Panel notes that the composition of the Domain Name, carries risk of implied affiliation with the Complainant.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with 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.

The Respondent most likely knew of the Complainant when he registered the Domain Name. It follows from the composition and use of the Domain Name, and the fame of the Complainant. The documented use of the Domain Name is further evidence of bad faith. The Respondent has not offered any explanation to why it registered a domain name confusingly similar to the Complainant's trademark, nor provided any evidence of actual or contemplated good faith use of the Domain Name. It is in the Panel's opinion implausible that the Respondent may put the Domain Name into any good faith use.

Based on the available record, the Panel finds that the Complainant has established the bad faith element.

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 Name <onlinepromod.shop> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: February 27, 2024