

ADMINISTRATIVE PANEL DECISION

Schibsted ASA v. Carolina Rodrigues, Fundacion Comercio Electronico Case No. D2024-0235

1. The Parties

The Complainant is Schibsted ASA, Norway, represented by Abion AB, Sweden.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <shibsted.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 2024. On January 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Registration Private, Domains By Proxy, LLC) 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 amendment to the Complaint on the same day.

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 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 Complainant submitted further submissions on January 22, 2024, following the notification of Complaint. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 12, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on February 14, 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 multinational company with its registered seat in Oslo, Norway, whose primary activities are in e-commerce and media. Besides the publication of well-known newspapers in Scandinavia, the Complainant also provides online marketplaces in Norway, Sweden and Finland, such as the widely known marketplace Blocket. The roots of the Complainant date back to the year 1839.

The Complainant owns a number of trademark registrations for SCHIBSTED, including but not limited to the European Union Trademark Registration Nr. 006476501, registered on October 3, 2008, for SCHIBSTED, covering protection for various goods and services covered in class 9, 16, 35, 38, and 41 (Annex 9 to the Complaint).

The Complainant further operates its official website at “www.schibsted.com”.

The Respondent is reportedly located in Panama.

The disputed domain name was registered on April 6, 2023.

According to the case record, the disputed domain name resolved to a landing page with apparently pay-per-click (“PPC”) links to third party websites (Annex 11 to the Complaint). Furthermore, the Respondent has activated and configured MX records for the disputed domain name, which enables the Respondent to send and receive emails using the disputed domain name (Annex 12 to the Complaint).

At the time of this Decision, the disputed domain name does not resolve to an active website anymore.

On November 21, 2023, the Complainant sent a cease-and-desist letter to the Respondent and tried to solve the dispute amicably by requesting a transfer of the disputed domain name (Annex 6 to the Complaint). However, no response thereof was received.

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.

B. Respondent

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

6. Discussion and Findings

6.1. Consideration of Supplemental Filing by Complainant

The Panel notes that the Center unsolicited supplemental filings from the Complainant on January 22, 24, and 25, 2024.

In light of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.6, the Panel follows the reasoning of the panel in *Viz Communications, Inc. v. Redsun dba www.animerica.com and David Penava*, WIPO Case No. [D2000-0905](#), that it is appropriate to consider the circumstances of each case before deciding whether or not to admit additional or late-filed submissions.

In this case, the supplemental filing by the Complainant of January 24, 2024 virtually differs from the initial filing of the Complaint only as regards three additional annexes in response to the disclosed registrant information from the Registrar, namely further domain names related to the Respondent, the current use of these domain names and the Respondent's involvement in previous UDRP cases.

On the one hand, the Panel notes that the registrant information from the Registrar was not available to the Complainant when the initial Complaint was filed. On the other hand, the registrant information was available to the Complainant when it filed its amendment to the Complaint on January 22, 2024. However, the Panel notes that the supplemental filing by the Complainant on January 24, 2024 does contain additional information that would further strengthen the Panel's final decision in this case.

Hence, the Panel decided to take the Complainant's supplemental filing of January 24, 2024 and the provided additional annexes into account in order to render a decision in this case.

6.2. Substantive Issues

According to paragraphs 14 and 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable and on the basis of the Complaint where no substantive response has been submitted.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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 in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not substantively replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. [WIPO Overview 3.0](#), section 4.3.

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

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.

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

The Panel finds the mark is recognizable within the disputed domain name. As stated at section 1.9 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, misspellings do not prevent a finding of confusing similarity. In the present case, the Panel notes that the disputed domain name incorporates an apparent misspelling of the Complainant's SCHIBSTED trademark by simply omitting the additional letter "c", which in view of the Panel, still makes the Complainant's SCHIBSTED trademark recognizable within the disputed domain name.

Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy.

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.

On the contrary and bearing in mind that the Respondent has configured an MX email server for the disputed domain name, the Panel cannot exclude that the disputed domain name may already have been used or will be used in connection with possibly fraudulent or illegitimate activities by the Respondent.

Additionally, noting that the disputed domain name is confusingly similar to the Complainant’s SCHIBSTED trademark, the Panel has no doubt that the Respondent’s intent is to create confusion with the Complainant and to direct Internet users to third party websites unrelated to the Complainant, presumably for commercial gain, which in view of the Panel cannot constitute a bona fide commercial use or a legitimate noncommercial or fair use of the disputed domain name and can never confer rights or legitimate interests upon the Respondent.

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.

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.

In the present case, the Panel notes that the Respondent must have had the Complainant and its SCHIBSTED trademark in mind when registering the disputed domain name. Noting the typosquatting nature of the disputed domain name, comprising Complainant’s SCHIBSTED trademark and simply omitting the additional letter “c”, it is obvious to the Panel, that the Respondent has deliberately chosen the disputed domain name to target and mislead third parties. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

With respect to the use of the disputed domain names in bad faith, the Panel notes that the disputed domain name resolved to a landing page with PPC links. The use of the disputed domain name to resolve to a landing page with PPC links to third party websites, in the present circumstances, is an indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainant's trademark as to the source, sponsorship, affiliation or endorsement of this website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

Beyond this, the disputed domain name has yet not been associated to an active website. Panels have found that the non-use of a domain name (including a blank or landing 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 disputed 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 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 and reputation of the Complainant's SCHIBSTED trademark, and the composition of the disputed domain name, which comprises an apparent misspelling of the Complainant's trademark, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

In addition, the Panel believes that the active MX email server for the disputed domain name creates a real or implied ongoing threat to the Complainant, since the disputed domain name may be used by the Respondent to mislead Internet users looking for the Complainant in their false belief that any email sent from the disputed domain name originates from the Complainant, likely for fraudulent activities.

Also, the Panel accepts the failure of the Respondent to submit a substantive response to the Complainant's contentions as an additional indication for bad faith use.

Lastly, the Panel further notes that the engagement of the Respondent in a pattern of trademark-abusive domain name registrations further supports the finding of bad faith registration and use of the disputed domain name. See, e.g., *Alstom v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2023-4902](#), *American Airlines, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-4950](#), *Infosys Limited v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2023-5127](#), and *Compagnie Générale des Etablissements Michelin v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2023-5400](#). Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <shibsted.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: February 27, 2024