

ADMINISTRATIVE PANEL DECISION

EE Holding Group LLC v. Name Redacted

Case No. D2024-0568

1. The Parties

The Complainant is EE Holding Group LLC, United States of America (“United States”), represented by The Sladkus Law Group, United States.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <officialsericemanuel.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 7, 2024. On February 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 8, 2024, the Registrar transmitted by email to the Center its verification response disclosing the 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 February 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 on February 12, 2024.

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”).

¹ The Respondent appears to have used the name of a third party when registering the Disputed Domain Name. In light of the potential identity theft, the Panel has redacted Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the Disputed Domain Name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 13, 2024.

The Center appointed Tommaso La Scala as the sole panelist in this matter on March 15, 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.

On March 15, 2024 (after the due date for Response) the center received an email from the Respondent, in which the latter affirmed that the Disputed Domain Name was registered without his consent and that it requested to the Registrar the deletion of the Disputed Domain Name.

4. Factual Background

The Complainant is a United States company which owns all intellectual property, including all trademark rights, of fashion designer Eric Emanuel, an independent sportswear designer who is well-known in the modern fashion industry.

The ERIC EMANUEL trademark has been registered in several jurisdictions, including in the United States, among others under Registration No. 6721224 filed on December 3, 2020, and granted on May 24, 2022.

The Complainant also owns, among others, the domain name <ericmanuel.com>, registered in 2014 and connected to the Complainant's official website.

The Disputed Domain Name <officialsericmanuel.com> was registered on November 24, 2023, and currently redirects to a website impersonating the Complainant's official website or one of Complainant's authorized retailers.

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 is the owner of several trademark registrations in different jurisdictions worldwide that consist of the mark ERIC EMANUEL. The Disputed Domain Name fully incorporates such trademark with the mere addition of the word "officials" and is therefore confusingly similar to the Complainant's mark.

The Complainant contends that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant confirms it has never assigned, granted, licensed, sold, transferred, or in any way authorized the Respondent to register or use the ERIC EMANUEL Trademark in any manner.

The Disputed Domain Name was registered in bad faith, since the attempt of impersonating the Complainant carried out by the Respondent for illegitimate purposes cannot be in good faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions and simply sent an email to the Center after the response due date, claiming that an unknown person used its email address to register the Disputed

Domain Name. The Respondent further claimed to have requested the Registrar to delete the Disputed Domain Name.

6. Discussion and Findings

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established rights to the ERIC EMANUEL mark, as demonstrated by its registrations and widespread continued use. The Disputed Domain Name is confusingly similar to the Complainant's mark because it contains the entirety of the Complainant's marks with the addition of the term "officials". The addition of a term such as "officials" surely does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's registered trademark. See e.g., *CCA&B, LLC, v. Contact Privacy Inc. Customer 1243158618 / Chris Cunningham*, WIPO Case No. [D2018-2302](#) ("disputed domain name incorporates the dominant features of the mark and the inclusion of 'alternative' does not negate the confusing similarity").

Based on the available record, the Panel finds the 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 Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 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.

The Complainant has shown that the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain. Rather, the Respondent was trying to impersonate the Complainant.

The Panel also finds that the composition of the Disputed Domain Name, with the additional term "officials", cannot constitute fair use as it effectively impersonates the Complainant.

The Respondent did not reply to the Complainant's allegations; therefore, the Respondent cannot establish rights or legitimate interests under the Policy.

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.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Disputed Domain Name was registered after the Complainant first started using its ERIC EMANUEL trademark and the Complainant's evidence establishes extensive use of its mark as at the date of registration of the Disputed Domain Name. Given the confusing similarity between the latter and the Complainant's mark, it is clear that the Respondent was aware of the Complainant and its ERIC EMANUEL mark as at the date of registration of the Disputed Domain Name and registered it in order to take unfair advantage of it.

On the contrary, the website to which the Disputed Domain Name resolved - that is impersonating the Complainant's e-commerce commercializing the ERIC EMANUEL fashion items and that is reproducing the Complainant's website layout, colors, etc. – was clear evidence of the Respondent's knowledge and awareness of the Complainant.

Paragraph 4(b) of the Policy sets out, without limitation, circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The circumstance set out in paragraph 4(b)(iv) of the Policy is if a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website.

UDRP panels have categorically held that the use of a domain name for illegal activity (here, claimed sale of counterfeit goods and impersonation/passing off) constitutes bad faith (see [WIPO Overview 3.0](#), section 3.1.4). Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds the third element of the Policy has been established.

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 <officialsericemanuel.com> be transferred to the Complainant.

/Tommaso La Scala/

Tommaso La Scala

Sole Panelist

Date: March 28, 2024