

## **ADMINISTRATIVE PANEL DECISION**

### **Robert Bosch GmbH v. Nellie Sampley**

### **Case No. D2024-0790**

#### **1. The Parties**

The Complainant is Robert Bosch GmbH, Germany, represented by Société d'Avocats PYMLEX, France.

The Respondent is Nellie Sampley, United States of America ("United States").

#### **2. The Domain Name and Registrar**

The disputed domain name <boschvente.com> is registered with Gname.com Pte. Ltd. (the "Registrar").

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 21, 2024. On February 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 22, 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 February 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 February 25, 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 March 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 27, 2024.

The Center appointed Lorenz Ehrler as the sole panelist in this matter on April 3, 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 German multinational engineering technology company with headquarters in Gerlingen, Germany. It employs about 420,000 people worldwide and is present with regional companies in more than 60 countries.

The Complainant owns numerous trademarks, in particular:

- European Union trademark BOSCH, no. 005047221, registered on April 10, 2006; and
- International trademark no. 942823, registered on October 16, 2007, designating numerous countries, including the United States, where the Respondent reportedly resides.

The Complainant also registered different domain names, in particular <bosch.com>, <bosch.de>, and <bosch.fr>, which resolve to its main website or to regional websites, respectively.

The disputed domain name was registered by the Respondent on August 31, 2023 and is thus clearly posterior to the Complainant's trademarks. It resolves to a website that conveys the impression of an official BOSCH website for the sale of certain BOSCH apparatus and equipment.

#### **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 the disputed domain name is confusingly similar to its BOSCH trademarks.

Furthermore, the Complainant states that the Respondent is not affiliated with them and that no license has been granted to the Respondent to use the Complainant's trademarks. Also, the Respondent does not use the disputed domain names otherwise than for fraudulent purposes which can obviously not represent any fair use.

Lastly, the Complainant contends that the Respondent registered and "uses" the disputed domain name in bad faith, in particular for operating a website that offers BOSCH products for sale, which in turn is used for the illegal purpose of phishing Internet users' credit card information. The Complainant provides evidence of actual user confusion wherein a potential customer reported being scammed by the disputed domain name and whose credit card information was then stolen and used on multiple occasion on other websites to make purchases.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) The disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

## **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 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 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.

Although the addition of other terms, here "vente", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 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.

Panels have held that the use of a domain name for illegal activity, in the present case phishing, 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.

The undisputed prima facie evidence establishes that the Respondent is not affiliated with the Complainant and has no license or other authorisation to use the Complainant's trademark.

Respondent registered the disputed domain name well after the Complainant's trademark was in use. The Panel finds that the Respondent should have known about the Complainant's trademark and business when registering the disputed domain name. This Panel considers that the disputed domain name for itself is a strong indication that the Respondent was aware of the Complainant's trademark BOSCH, as it seems more than unlikely that the Respondent would have created – randomly – the disputed domain name that is almost identical with the Complainant's distinctive trademark (*cf. Motul v. Contact Privacy Inc. Customer 0138693539 / Konstantin Speranskii*, WIPO Case No. [D2016-2632](#)).

Any remaining doubt in this respect can be excluded because the disputed domain name resolves to a website that conveys the appearance of an official online outlet of the Complainant, offering for sale, at least apparently, BOSCH products via an integrated e-business application.

In addition, only a few months following registration of the disputed domain name, an Internet user attempted to purchase a BOSCH product on the disputed domain name, without ever receiving the purchased and paid for product. This alone suffices to consider that the conditions of paragraph 4(b)(iv) of the Policy are met, namely that the Respondent uses the domain name to attract, for commercial gain, Internet users to its web site, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of such web site.

In addition to the above, the Internet visitor in question reported that, shortly after the attempted purchase on the Respondent's website, his credit card information was fraudulently used to purchase goods online. In light of the circumstances, it seems highly probable that such fraudulent use of the credit card information was made by the Respondent. This confirms that the Respondent registered the disputed domain name for a fraudulent purpose, which implies that it was well aware of the Complainant's company and trademark.

One of the ways in which domain names may be used in bad faith is in connection with fraud schemes. One of such fraud schemes consists in using the domain name to get in possession of sensitive personal information such as credit card information, for the purpose of stealing money from the victim (phishing).

This Panel therefore holds the view that the disputed domain names were registered and used in bad faith. The Complainant therefore has established registration and use of the disputed domain names 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.

Panels have held that the use of a domain name for illegal activity such as phishing 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.

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 <boschvente.com> be transferred to the Complainant.

/Lorenz Ehrler/

**Lorenz Ehrler**

Sole Panelist

Date: April 17, 2024