

ADMINISTRATIVE PANEL DECISION

OVS S.p.A. v. Domain Privacy, Domain Name Privacy Inc
Case No. D2024-0892

1. The Parties

The Complainant is OVS S.p.A., Italy, represented by Rapisardi Intellectual Property, Italy.

The Respondent is Domain Privacy, Domain Name Privacy Inc, Cyprus.

2. The Domain Name and Registrar

The disputed domain name <stefanel.online> is registered with Communigal Communications Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 29, 2024. On February 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 6, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 8, 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 March 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 2, 2024.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on April 11, 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 an Italian-based company active in the field of fashion retail. The Complainant operates over 2,000 stores worldwide under its brands “OVS”, “UPIM” and “Stefanel”. The Complainant operates over a hundred “Stefanel” stores located in Europe and the Middle East.

The Complainant is the owner of the following trademark registrations for STEFANEL:

- European Union trademark registration No. 000125609, registered on November 10, 1998, in classes 3, 9, 14, 16, 18, 24, 25, 41 and 42;
- International trademark registration No. 582416, registered on October 18, 1991, in classes 3, 9, 14, 16, 18, 24, 25, 41 and 42.

The Complainant owns several domain names containing the mark STEFANEL, among which the domain name <stefanel.clothing> registered on February 5, 2014.

The disputed domain name was registered on December 14, 2023.

At the time of filing of the Complaint, the disputed domain name resolved to a parking page with sponsored links, one of which referred to “Maglioni Uomo” (“men’s sweater” in English), and another to “Stefanel”, the latter leading to page advertising a “Stefanel Outlet” not related to the Complainant.

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 well-known trademark STEFANEL, despite its combination with the common term “online”.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Respondent has not been authorized by the Complainant to use the disputed domain name and is not commonly known by the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and used in bad faith. It considers that the Respondent’s use of STEFANEL was aimed at taking advantage of the Complainant’s trademarks’ notoriety and reputation. In particular, the Complainant contends that the Respondent registered and used the disputed domain name to attract for commercial gain Internet users by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name registered by the respondent 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.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Top-Level Domain ("TLD") "online" may be disregarded in the assessment of the first element of the Policy. Panels consider that the applicable TLD in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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.

No evidence suggests that the Respondent was using or was making demonstrable preparations to use the disputed domain name in connection with any type of bona fide offering of goods or services. Instead, based on the evidence provided by the Complainant, it appears that the Respondent used the disputed domain name in connection with a website containing pay-per-click ("PPC") links to third-party websites. Applying paragraph 4(c) of the Policy, UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark, or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

Accordingly, the Respondent's use of the disputed domain name does not constitute bona fide offering of goods and services.

Finally, the Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b).

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 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.

In the present case, the Complainant's mark STEFANEL has no perceivable meaning and is distinctive. The disputed domain name was registered many years after the Complainant first registered and used its STEFANEL trademarks. Given the distinctiveness of the Complainant's trademark, and also the presence, on the parking page connected to the disputed domain name, of several references to the Complainant's field of activity (namely "men's sweaters" and "stefanel outlet"), the Panel finds it unlikely that the disputed domain name was chosen independently without reference to the Complainant's trademarks. Consequently, the Panel considers that the Respondent could not ignore the existence of the Complainant and of its trademark at the time of the registration of the disputed domain name, such that the disputed domain name was registered in bad faith.

In addition, the presence of PPC links to (apparently competing) third party websites on the page to which the disputed domain name resolves supports a finding of use in bad faith. Indeed, resolving to a webpage with PPC links suggests an intention on the part of the Respondent to exploit and profit from the Complainant's trademark, by attempting to generate financial gains by means of "click through" revenues. Such conduct constitutes bad faith registration and use of the disputed domain name within the meaning of paragraph 4(b)(iv) of the Policy (see *F. Hoffmann-La Roche AG v. James Lee*, WIPO Case No. [D2009-1199](#); *Scania CV AB v. Michael Montrief*, WIPO Case No. [D2009-1149](#); *Aspen Holdings Inc. v. Rick Natsch, Potrero Media Corporation*, WIPO Case No. [D2009-0776](#); and *AllianceBernstein LP v. Texas International Property Associates*, WIPO Case No. [D2008-1230](#)).

Based on the available record, 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 <stefanel.online> be transferred to the Complainant.

/Anne-Virginie La Spada/

Anne-Virginie La Spada

Sole Panelist

Date: April 24, 2024