

ADMINISTRATIVE PANEL DECISION

Sardegna resorts S.r.l. – società unipersonale v. Milen Radumilo
Case No. D2024-1390

1. The Parties

The Complainant is Sardegna resorts S.r.l. – società unipersonale, Italy, represented by GriffeShield S.r.l., Italy.

The Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <peverohealthtrail.com> is registered with DropCatch.com LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 2, 2024. On April 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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, NameBrightPrivacy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 4, 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 April 5, 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 April 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 2, 2024.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on May 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 by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is Sardegna resorts S.r.l., an Italian società unipersonale. The core business of the Complainant and its parent company is the management of hotels, restaurants, bars, and commercial establishments, such as golf clubs. It also engages in the purchase, construction, sale and lease of property and real estate. Via a subsidiary company, the Complainant owns the luxury hotel Cala di Volpe, including Pevero Golf Club, home of the Francesco Molinari Golf Academy. According to the Complainant, the related golf course is considered to be one of the most memorable and challenging in the world, and has been classified by Golf Magazine among its top 50 worldwide.

The Complainant owns a variety of registered trademarks containing the PEVERO mark, including European Union Registered Trademark Number 004339388 for the word mark PEVERO GOLF CLUB, registered on May 4, 2006 in Classes 16, 28, 41, 43, and 44.

According to the corresponding Whois record, the disputed domain name was registered on June 7, 2023. The website to which the disputed domain name has been redirected features sponsored advertising pay-per-click (“PPC”) links, including “Golf Resort” and “Golfclub”. Related links lead to a golf retailer’s website, hotels in Sardinia where the Complainant’s hotel and golf club is located, and a third party golf club, and the Complainant notes that these businesses are its competitors. The Respondent has featured in over 200 decisions under the Policy since about 2015.

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 includes the sign PEVERO and incorporates two terms “health” and “trail”, adding that domain names that incorporate trademarks are found to be confusingly similar for the purposes of the Policy, despite the fact that they may also contain descriptive, generic, or geographical terms. Furthermore, the Respondent has used the disputed domain name specifically to direct Internet users to a webpage referring to the Complainant’s full trademark. Such evidence of intent to confuse reinforces the confusing similarity.

The Complainant asserts that the Respondent is not an authorized dealer, agent, distributor, wholesaler, or retailer of the Complainant, and that the Complainant has not authorized the Respondent to include its mark in the disputed domain name or to make any other use of its mark. The Complainant adds that the Respondent has not provided any evidence of the use or demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, adding that the possibility that the Respondent is commonly known by the disputed domain name may be excluded. The Complainant submits that the PPC links on the website associated with the disputed domain name compete with and capitalize on the reputation of the Complainant’s marks, noting that some of them are related to the Complainant’s commercial field. The Complainant also notes that said PPC links do not support a claim of rights or legitimate interests in the exceptional circumstances described in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)).

The Complainant submits that the PPC links were displayed on the Respondent’s website shortly after its registration, demonstrating use in bad faith. It also asserts that its mark is famous, due to the fame and popularity of the eponymous golf course, and that it would be disingenuous of the Respondent to claim that it

was unaware of said mark when it registered the disputed domain name. It notes that its mark long predates the registration of the disputed domain name and that the latter seeks to capitalize on the Complainant's mark by diverting Internet users seeking information about the Complainant's golf course to a website featuring sponsored links to third party commercial websites for commercial gain.

The Complainant notes that the Respondent has been found to have registered and used a domain name in bad faith in over 200 decisions under the Policy, demonstrating a pattern of conduct within the meaning of the Policy, adding that some of these domain names targeted clubs, resorts and hotels, being the same line of business as the Complainant.

B. Respondent

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

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 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 Panel finds the mark is recognizable 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 entirety of the mark is not reproduced, its first element is wholly incorporated, namely, PEVERO. This is plainly the dominant feature and most distinctive element of the trademark in the Panel's opinion, and its presence in the disputed domain name renders the mark recognizable therein.

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

While the content of the website is usually disregarded by panels when assessing confusing similarity under the first element, in some instances, panels have however taken note of the content of the website associated with a domain name to confirm confusing similarity whereby it appears prima facie that the respondent seeks to target a trademark through the disputed domain name. Such content will often also bear on assessment of the second and third elements, namely whether there may be legitimate co-existence or fair use, or an intent to create user confusion. [WIPO Overview 3.0](#), section 1.15.

Here, it is clear that the Respondent's website content is specifically targeting the Complainant, given that it uses the term "golf club" along with the PEVERO element of the Complainant's mark, thus affirming the confusing similarity.

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.

Applying UDRP paragraph 4(c), 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. Here, the Respondent’s use of links which specifically refer to the Complainant’s line of business in association with the disputed domain name misleads Internet users, ultimately redirecting them to competitors of the Complainant. This capitalizes unfairly on the reputation and goodwill of the Complainant’s mark which does not confer any rights and legitimate interests upon the Respondent in the circumstances of the present case.

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. Here, the Complainant’s case focuses on paragraph 4(b)(iii) and paragraph 4(b)(iv) of the Policy.

The Panel notes that the Complainant’s mark predates the registration of the disputed domain name by almost two decades. The disputed domain name appears to the Panel to have been registered in the knowledge of the Complainant’s mark and with intent to target it, based upon the fact that it reproduces the first and most distinctive element of the mark. The subsequent use of the disputed domain name reinforces this notion, given that shortly after it was registered, the disputed domain name was pointed to a website hosting PPC links relating to golf courses, luxury hotels and a golf retailer, being the same or related lines of business to those of the Complainant. This establishes that the Respondent is not using the term “Pevero health trail” in a manner that is unrelated to the Complainant’s mark, such as, for example, a geographic reference to a health trail in a place named Pevero.

The Panel finds that by using the disputed domain name, the 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 such website or of a product or service on such website, being evidence of registration and use in bad faith in accordance with the Policy, paragraph 4(b)(iv). To the extent that the related PPC links are automated, the Respondent cannot disclaim responsibility for content appearing on the website associated with its domain name, and there is no evidence of any mitigating factors such as any attempt on the part of the Respondent to avoid links that target the Complainant’s mark. [WIPO Overview 3.0](#), section 3.5.

Furthermore, it is clear from the volume of cases brought against the Respondent under the Policy that it has a modus operandi of registering domain names that are confusingly similar to the trademarks of others and

pointing these to PPC websites containing related advertising, notably of the mark holder's competitors. Such a pattern of conduct reinforces the notion that the disputed domain name has been registered and is being used in bad faith, along the lines of the Policy, paragraph 4(b)(ii).

The Respondent has not sought to challenge the Complainant's allegations or any of its evidence in the administrative proceeding. It has provided no evidence of actual or contemplated good-faith use of the disputed domain name. In the circumstances of the present case, in the absence of any reasonably plausible alternative explanation from the Respondent, the Panel cannot see how the disputed domain name could be regarded as having been registered and used in good faith.

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 <peverohealthtrail.com> be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: June 4, 2024