

ADMINISTRATIVE PANEL DECISION

Rheem Manufacturing Company v. Xueming Lu
Case No. D2024-1557

1. The Parties

The Complainant is Rheem Manufacturing Company, United States of America (“United States”), represented by Eversheds Sutherland (US) LLP, United States.

The Respondent is Xueming Lu, China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 12, 2024. On April 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 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, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 15, 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 19, 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 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 10, 2024.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on May 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.

4. Factual Background

The Complainant is Rheem Manufacturing Company (“Rheem”), an American leading privately held manufacturer of commercial and residential equipment, including water heaters, boilers, refrigeration, and other heating and cooling equipment.


Rheem Manufacturing Company offers hundreds of products under the trademark RHEEM, which has been in use in commerce since at least as early as 1930.

The Complainant offers its products in the United States and throughout the world.

The Complainant submitted a whole portfolio of trademarks to demonstrate that RHEEM is registered worldwide, including United States Registration No. 0,671,120, registered on December 16, 1958.

With regards to China, where the Respondent is located, the Complainant presented extracts from the Chinese trademarks registry, including:

- China trademark No. 12684333 for the word 瑞美(RHEEM in Chinese characters), registered on March 28, 2015, in class 35,

- China trademark  No. 8275381, registered on June 21, 2011, in class 11.

The Complainant also owns the domain name registration for <rheem.com> since July 26, 1995, which features the trademark RHEEM and is used in connection with a website presenting the Complainant's products.

The disputed domain name was registered on October 22, 2022, and is being used to host a website that offers unauthorized products at discounted prices and displaying the trademark RHEEM and Rheem's copyright-protected materials.

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 identical or confusingly similar to its registered trademarks. It incorporates the registered trademark RHEEM in its entirety, with the addition of the term “store”, which is a word commonly associated with any business offering goods for sale to the public. In this case, the addition of the generic term “store” does not render the disputed domain name distinct from the trademark RHEEM and rather enhances the likelihood of confusion. Consumers will be bewildered as to the source of this domain name and Rheem's sponsorship or affiliation with the products offered for sale on Respondent's website.

Second, the Complainant asserts that the Respondent is using the trademark RHEEM in both the disputed domain name and the content of the hosted website, whereas it has no right, title, interest, or license to use this trademark. The Complainant indicates that it has no knowledge of the Respondent and has certainly

never licensed the Respondent to use or hold domain names using the trademark RHEEM. The Complainant carefully monitors its licensees' use of its registered trademarks and would not permit a licensee to use the trademarks RHEEM in the manner presented on the website at the disputed domain name, at unreasonably discounted prices. Rheem has never licensed its trademarks to be used in the trade name of another business entity. There is no evidence that the disputed domain name is the legal name of the Respondent or, to the knowledge of the Complainant, of any entity with which the Respondent is lawfully associated. Further, the Respondent has no registered trademark or service mark rights in "rheem" or "rheem store." The actual use of the disputed domain is neither a bona fide use nor a legitimate noncommercial or fair use, as the Respondent is using the disputed domain name to directly infringe upon Rheem's registered trademarks for its own commercial gain.

Third, the Complainant maintains that the disputed domain name was registered and is being used in bad faith. Not only does Rheem have registered trademarks that include RHEEM, but these trademarks are used with consumer and commercial products that are sold and available online in the United States and worldwide. The timing of the Respondent's registration of the disputed domain name, more than 90 years after the first use in commerce of the trademark RHEEM, 60 years after the United States federal registration of this same trademark, and 25 years after the launch of the Complainant's domain name <rheem.com>, supports a bad faith finding. The disputed domain name consists of Rheem's distinctive trademark in its entirety with a generic term for a retail business and is being used to host a website that offers heavily discounted, and possibly counterfeit RHEEM branded goods, which both act as evidence of bad faith. As such, the Respondent has commercially gained from using the disputed domain name to create an infringing website to purposefully confuse consumers as to its association with the Complainant and trade upon Rheem's goodwill and reputation in the market for HVAC units, water heaters, and related products and services. Finally, the Complainant states that the Registrant has taken steps to hide its identity from the public, including remaining anonymous on the Whois register and utilizing false contact information on its website, which suggests that it is not operating a legitimate business. Furthermore, the Complainant highlights that the Respondent has already been involved in domain name cybersquatting, and refers to the case *Schluter Systems, LP v. Xueming Lu*, WIPO Case No. [D2024-0570](#)). It is clear for the Complainant that the Respondent is engaged in a pattern of illegal and infringing conduct.

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 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.

Although the addition of another term, here store, 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.

While it is uncertain what activity exactly the Respondent is pursuing, in a best-case scenario the disputed domain name would host a website offering for sale genuine products. However, as configured this website is far from meeting the standards required under the “Ok! Data test”. [WIPO Overview 3.0](#), section 2.8.1. In particular, it does not contain any disclaimer on its lack of relationship with the Complainant.

Also, the disputed domain name, which redirects to a website claiming to offer the Complainant-branded products at low prices, was registered to take advantage of the risk of implied affiliation with the Complainant’s trademark. [WIPO Overview 3.0](#), section 2.5.1.

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.

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 has registered a domain name incorporating the Complainant’s distinctive trademark in full, with the additional term “store”. The content of the website to which the disputed domain name redirects, is also actively reusing the trademark RHEEM, including the header of every webpage and in product descriptions. As a consequence, it can be inferred that the Respondent was aware of the Complainant’s trademark when registering the disputed domain name and registered it in bad faith.

The evidence and allegations submitted by the Complainant support a finding that the Respondent was engaged in an attempt to pass itself off as the Complainant by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of its website. The Respondent was seeking to attract Internet users to its website for its own commercial gain or to gain access to their personal and financial information. The Respondent therefore used the disputed domain name in bad faith.

Moreover, the Respondent concealed its identity and used false contact details on the website.

Also, the Respondent is engaged in a pattern registering domain names in bad faith, as evidenced by the Complainant.

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 <rheemstore.com> be transferred to the Complainant.

/Benjamin Fontaine/

Benjamin Fontaine

Sole Panelist

Date: May 22, 2024