

## **ADMINISTRATIVE PANEL DECISION**

Sarenza v. WuYixuan, WuYixuan  
Case No. D2024-1719

### **1. The Parties**

The Complainant is Sarenza, France, represented by MIIP - MADE IN IP, France.

The Respondent is WuYixuan, WuYixuan, China.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 24, 2024. On April 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 25, 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 (WhoisSecure) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 3, 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 May 3, 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 May 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 31, 2024.

The Center appointed Anna Carabelli as the sole panelist in this matter on June 13, 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 French company engaged in the design, manufacturing, and marketing of clothing and fashion accessories under the brand GEORGIA ROSE, which are marketed also online on the Complainant's official website ("www.sarenza.com").

The Complainant is the owner of numerous trademark registrations worldwide consisting of, or encompassing GEORGIA ROSE, including the following:

- Norway Trademark registration No. 292726, registered on June 9, 2017 in classes 3, 18, and 25;
- Swiss Trademark registration No. 702421, registered on May 19, 2017 in classes 3, 18, and 25;
- European Union Trademark registration No. 018159321, registered on May 22, 2020, in classes 3, 18, and 25; and
- United Kingdom Trademark registration No. UK00918159321, registered on May 22, 2020, in classes 3, 18, and 25.

The disputed domain name was registered on September 23, 2023. The evidence in the Complaint is that the disputed domain name resolved to an active website seemingly offering GEORGIA ROSE trademarked shoes and accessories.

At the time of this Decision the disputed domain name resolves to an inactive webpage displaying a notice that the site cannot be reached.

#### **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 Complainant's trademark GEORGIA ROSE is highly distinctive in relation to fashion industry.
- The disputed domain name is confusingly similar to the Complainant's GEORGIA ROSE trademark. In this regard, the Complainant notes that the disputed domain name entirely incorporates the GEORGIA ROSE mark. The addition of the term "mode", corresponding to the French word that means "fashion" does not prevent a finding of confusing similarity.
- The Respondent has no rights or legitimate interests in the disputed domain name since: (i) the Complainant has not authorized or somehow given consent to the Respondent to register and use the disputed domain name, and (ii) the Respondent's use of the disputed domain name is neither a bona fide offering of goods or services nor a legitimate noncommercial or fair use. In this connection, the Complainant points out that the disputed domain name resolved to a website purportedly offering the Complainant's products, using photographs from the Complainant's website. All items are offered for sale at a discounted price. This leads consumers to believe that the Respondent's website is an outlet site or a site affiliate with the Complainant.
- The disputed domain name was registered and is being used in bad faith by the Respondent to take advantage of the Complainant's trademark GEORGIA ROSE to generate profits with a domain name confusingly similar to the Complainant's prior mark and a servile copy of its official website.

Based on the above, the Complainant requests that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (i) the disputed domain name 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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

### **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 Panel finds the entirety of the Complainant's registered trademark GEORGIA ROSE is reproduced and 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. The addition of the generic Top-Level Domain, such as ".com", is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other terms, here "mode", 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.

Moreover, as noted in Section 6.A above, the disputed domain name incorporates the Complainant's GEORGIA ROSE mark in its entirety together with the term "mode", which carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. Indeed, as per the uncontested evidence submitted with the Complaint, the Respondent has used the disputed domain name to operate a website offering allegedly GEORGIA ROSE branded shoes and accessories. There is not any disclaimer on the website disclosing the (lack of) relationship between the Parties. This cannot constitute fair use.

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, in the Panel's view it is difficult to believe that the Respondent did not have in mind the Complainant's trademark when registering the disputed domain name. According to the uncontested evidence submitted with the Complaint, the disputed domain name resolved to a website purportedly offering the Complainant's products, using photographs from the Complainant's website.

This indicates that the Respondent knew and targeted the Complainant when registering the disputed domain name and suggests that the disputed domain name was registered in bad faith with a deliberate intent to create an impression of an association with the Complainant and to mislead Internet users into believing the disputed domain name as an official domain name of the Complainant.

By directing the disputed domain name to a commercial website allegedly offering the Complainant's goods, 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 its website or of the products on its website (see section 3.1.4 of the [WIPO Overview 3.0](#)).

Under paragraph 4(b)(iv) of the Policy, this circumstance shall be evidence of the registration and use of a domain name in bad faith.

The fact that the disputed domain name does not currently point to an active website and merely resolves to a webpage stating that the site cannot be reached, does not prevent a finding of bad faith under the passive holding doctrine given the totality of the circumstances in the present case. [WIPO Overview 3.0](#), section 3.3.

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 <georgiarosemode.com> be transferred to the Complainant.

*/Anna Carabelli/*

**Anna Carabelli**

Sole Panelist

Date: June 27, 2024