

ADMINISTRATIVE PANEL DECISION

Hermes International v. Guifang Ruan
Case No. D2024-1882

1. The Parties

The Complainant is Hermes International, France, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Guifang Ruan, China.

2. The Domain Name and Registrar

The disputed domain name <hermesremise.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 May 3, 2024. On May 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 6, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 May 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 13, 2024.

The Center appointed Jacques de Werra as the sole panelist in this matter on June 28, 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.

By email of May 22, 2024, the Center informed the Parties that the disputed domain name was set to expire on June 9, 2024, and that the Registrar had informed the Center that the disputed domain was set to Compliance Lock and was not allowed to be transferred pending these proceedings. The Registrar further informed that it was ready to renew the disputed domain name upon transfer of the funds for its renewal. The Center further informed the Parties that the Center accepted no responsibility for the consequences if the necessary steps to ensure the renewal of the disputed domain name (including payment of any applicable renewal / registration fees) were not taken and that such consequences may include the deemed withdrawal of nonrenewed expired or deleted domain names from the Complaint, or the dismissal (at the sole discretion of a Panel to be appointed) of the Complaint in relation to the domain name.

By email of May 30, 2024, Complainant's counsel informed the Center and the Registrar that the Complainant would like to pay the renewal fee in order to ensure the continued registration of the dispute domain name and asked the Registrar to provide instructions and costs for the renewal.

By email of June 25, 2024, the Registrar confirmed to the Center that the disputed domain name had been renewed so that its new expiration date is June 9, 2025.

4. Factual Background

The Complainant is a French high fashion luxury goods house. Established in 1837, the Complainant has been carrying out its business in all activities relating to the creation, production, and marketing of articles, particularly in the fields of leather goods, silk and textiles, ready-to-wear clothing and apparel, accessories, jewelry, watches, shoes, fragrances and beauty products, furniture, tableware and more generally, in all fields of art and luxury.

The Complainant currently employs 22,037 people worldwide and has over 306 exclusive stores across 45 countries. In 2023, the Complainant achieved a revenue of EUR13,427 million, translating to an operating income of EUR 5,650 million. According to global brand valuation firm Interbrand, Hermès was ranked 28th amongst the Best Global Brands in 2019. With a market capital worth USD 71.5 billion, Complainant was also ranked on Forbes list at number 33 for World's Most Valuable Brands 2019 as well as number 788 of Global 2000 in 2019. The Complainant interacts with its customers globally through its primary website, reachable through its domain name <hermes.com>, registered since November 24, 1997.

The Complainant owns many trademarks registered in multiple jurisdictions covering the word "HERMES" ("the Trademark") including:

- International trademark No. 229193A including the word HERMES (word and design trademark without additional graphical element beyond the word "HERMES") registered on March 3, 1960, for goods in classes 9 and 16 protected in Italy and in San Marino (with basic registration in Switzerland);
- International trademark No. 704185 including the word HERMES (word and design trademark with additional graphical elements beyond the word "HERMES") registered on November 18, 1998, for goods in classes 3, 8, 14, 16, 18, 21, 25 and 28 protected in multiple jurisdictions including China (with basic registration in France);
- Chinese trademark No. 248937 including the word HERMES (word and design trademark with additional graphical element beyond the word "HERMES") registered on April 30, 1986, for goods in class 25.

The Respondent registered the disputed domain name on June 9, 2022. The Respondent uses the disputed domain name in association with a website that features prominently the distinctive logo and brand of the Complainant at the top of the homepage and further provides (at the top of the homepage when printing it) the statement (in French): " Hermès Soldes | La boutique en ligne officielle Hermès " (in English: "Hermès

sales | The official Hermès online store”). On this website, the Respondent offers for sale products of the Complainant at heavily discounted prices, which are presented as being pre-owned products.

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 in essence that the disputed domain name can be considered as capturing, in its entirety, the Complainant’s Trademark and simply adding the term “remise” (French for “discount”) to the end of the Trademark. The mere addition of this term to the Complainant’s Trademark does not negate the confusing similarity between the disputed domain name and the Complainant’s Trademark under the Policy, paragraph 4(a)(i), and the disputed domain name must be considered confusingly similar to the Complainant’s Trademark. It is well established that the addition of descriptive terms is not sufficient to overcome a finding of confusing similarity pursuant to the Policy. Additionally, the Respondent’s use of the disputed domain name contributes to the confusion. The Respondent is using the disputed domain name to host a website that is impersonating the Complainant by utilizing the Complainant’s Trademark and logo across the website, while selling the Complainant’s products at discounted prices, which suggests that the Respondent intended the disputed domain name to be confusingly similar to the Complainant’s Trademark as a means of furthering consumer confusion. Although the content is usually disregarded under the first element of the UDRP, panels have “taken note of the content of the website associated with a domain name to confirm confusing similarity where it appears prima facie that the respondent seeks to target a trademark through the disputed domain name” See WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.15. As a result, the Respondent’s use of the disputed domain name to resolve to an online discounted store is further evidence that the disputed domain name is confusingly similar to the Complainant’s Trademark.

The Complainant further contends that the Respondent is not sponsored by or affiliated with the Complainant in any way, that the Complainant has not given the Respondent permission to use the Complainant’s Trademark in any manner, including in domain names and that the Respondent is not commonly known by the disputed domain name, which evidences a lack of rights or legitimate interests. See Policy, paragraph 4(c)(ii).

Furthermore, the Complainant has not licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant’s Trademark. In this case, the pertinent Whois information identifies the Registrant as “Guifang Ruan”, which does not resemble the disputed domain name in any manner. Thus, where no evidence, including the Whois record for the disputed domain name, suggests that the Respondent is commonly known by the disputed domain name, then the Respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy. The Respondent is furthermore not making a bona fide offering of goods or services or legitimate, noncommercial or fair use of the disputed domain name. The Respondent’s inclusion of the Complainant’s Trademark and logo on the disputed domain name’s website is a direct effort to take advantage of the fame and goodwill that the Complainant has built in its brand, and the Respondent is not only using the confusingly similar disputed domain name, but is also imitating the Complainant by displaying the Complainant’s logo. This imitation cannot lead to a bona fide offering of goods and services pursuant to Policy, paragraph 4(i), or a legitimate noncommercial or fair use of the domain name pursuant to Policy, paragraph 4(c)(iii).

The Complainant finally contends that by registering a domain name that incorporates the Complainant’s Trademark in its entirety along with the term “remise” which means “discount” in French, the Respondent has created a domain name that is confusingly similar to the Complainant’s Trademark, as well as its <hermes.com> domain name. As such, the Respondent has demonstrated a knowledge of and familiarity

with the Complainant's brand and business. Moreover, the Respondent's website features the Complainant's Trademark and logo while offering to sell the Complainant's products, without authorization, at a discounted rate. In light of the facts set forth within this Complaint, it is not possible to conceive of a plausible situation in which the Respondent would have been unaware of the Complainant's brand at the time the disputed domain name was registered. The Respondent's use of the disputed domain name further constitutes a disruption of the Complainant's business and qualifies as bad faith registration and use under Policy paragraph 4(b)(iii) because the Respondent's domain name is confusingly similar to the Complainant's Trademark and the website at the disputed domain name is being used to offer the Complainant's goods or services without the Complainant's authorization or approval.

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

Although the addition of another term, here: "remise" which means "discount" in French, 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 Trademark 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. Given that the Respondent has not responded to the complaint and has not participated in the proceedings, 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 (for example here impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. In this case, the Panel notes that the Respondent has extensively used without the authorization of the Complainant the logo and brand of the Complainant at the top of the homepage of the website associated with the disputed domain name in order to sell heavily discounted products appearing to be those of the Complainant (it being noted that the Complainant does not claim that the products would be counterfeit products) and has further misleadingly stated at the top of the homepage of the website, as at the time of the decision, that it constitutes the official online store of the Complainant for discounted products (with the text: "Hermès sales | The official Hermès online store" (written in French on the website)).

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 Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's Trademark.

In addition, panels have held that the use of a domain name for illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. In this case, the Panel notes that the Respondent has extensively used without the authorization of the Complainant the logo and brand of the Complainant at the top of the homepage of the website associated with the disputed domain name in order to sell heavily discounted products appearing to be those of the Complainant (it being noted that the Complainant does not claim that the products would be counterfeit products) and has further misleadingly stated at the top of the homepage of the website (when printing this page) that it constitutes the official online store of the Complainant for discounted products (with the text: "Hermès sales | The official Hermès online store" (written in French on the website)).

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 <hermesremise.com> be transferred to the Complainant.

/Jacques de Werra/

Jacques de Werra

Sole Panelist

Date: July 10, 2024