

ADMINISTRATIVE PANEL DECISION

Bostik SA v. mike simon

Case No. D2024-2298

1. The Parties

The Complainant is Bostik SA, France, represented by In Concreto, France.

The Respondent is mike simon, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <bostiksupplies.shop> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 5, 2024. On June 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 6, 2024, the Registrar transmitted by email to the Center its verification response registrant and contact information for the disputed domain name which differed from the named Respondent (Anonymized) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 10, 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 June 14, 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 June 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 17, 2024.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on August 14, 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 BOSTIK SA is a French company in business activity since 1985, and one of the largest adhesive and sealant companies in the world, employing some 6,000 people in 55 countries across five continents and notably in United States, with an important presence in the United Kingdom through its subsidiary BOSTIK LTD:

The Complainant has registered several trademarks BOSTIK for its main classes of interest such as the following:

International Trademark Registration No. 1190940, BOSTIK, registered on July 22, 2013, in classes 1, 7, 16, 17 and 19 and designating 63 countries including the United States and the United Kingdom;

International Trademark No. 1592858, BOSTIK, registered on March 1, 2021, in classes 1, 16,17 and 19;

International Trademark Registration No. 851632, BOSTIK, registered on February 3, 2005, in classes 1, 2, 3, 16, 17 and 19 and designating 54 countries.

The disputed domain name was registered on April 8, 2024, and resolves to a website which offers the Complainant's products with an important discount.

5. Parties' Contentions

A. Complainant

The Complainant argues as follows.

The registration of a domain name confusingly similar to a trademark in which the Complainant has rights while the Respondent has no rights on the disputed domain name nor legitimate interests in this respect and without authorization, demonstrates in itself that the Respondent is acting in bad faith.

BOSTIK is not a descriptive term, a commonly used expression, or a word that would be instantly understood in the field of industry. This denomination is therefore highly distinctive.

The Complainant has in no way authorized the Respondent to register or use the disputed domain name, nor to use its protected trademarks in general.

The website to which the disputed domain name resolves reproduces in its architecture, the Complainant's trademarks without authorization. It is thus very unlikely the Respondent chose the disputed domain name without any knowledge of the trademarks of the Complainant and/or its prior and current exploitation, through a highly similar domain name.

A simple Google search demonstrates the presence of the Complainant on the Internet.

The Respondent is also engaged in a fraudulent use of the disputed domain name as the exploited website tries to create an affiliation with the Complainant for selling its products with important discounts which is a common practice of fake shops.

Also, we can note that the data on the website is inconsistent, since it refers to the United States for the telephone number but to the United Kingdom for the address and more precisely to the address of the Sherlock Holmes Museum.

There is therefore no clear indication of an identified registered company on the website, and it is obvious a demonstration that the website is a fake.

On June 10, 2024, the Center provided the Complainant with the Notice of Registrant Information, which also refers to this fake postal address.

We can note additional inconsistencies as for instance the phone number is different than the one provided on the website. Also, the name (Mike Simon) and the email address do not appear consistent.

These elements demonstrate a will to not be identified with regard to the activity of the website, offering the Complainant products for sale, without authorization, and certainly without any actual delivery planned to customers.

As the disputed domain name is infringing the intellectual property rights of the Complainant it is obvious that the Respondent is using the disputed domain name in bad faith. In any case the fact to provide false data demonstrates the bad faith of the Respondent.

There is therefore no clear indication of an identified registered company on the website, and it is obvious a demonstration that the website is a fake.

The current exploitation is also an important risk for the users of the Internet who could wrongly think they are on an official site and communicate, for example, their personal data (banking codes in particular) during an order.

Finally, the Complainant requests the Panel to issue a decision ordering the transfer of the disputed domain name to 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 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 entirety of the mark is reproduced 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 Panel finds that the addition of the term "supplies" after the Complainant's trademark BOSTIK in the disputed domain name 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 ".shop" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

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.

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.

The Panel is satisfied that the Respondent must have been aware of the Complainant’s business and trademark BOSTIK mentioned in section 4 above (Factual Background) and also the Complainant’s websites to which its domain names resolve to when the Respondent registered the disputed domain name on April 8, 2024. By that time the Complainant had registered and used the trademark BOSTIK for many years.

By registering the disputed domain name, the Respondent was targeting the Complainant and its business by incorporating the Complainant’s trademark BOSTIK in the disputed domain name in its entirety.

The fact that there is a clear absence of rights or legitimate interests coupled with no explanation for the Respondent’s choice of the disputed domain name and the nature of the disputed domain name, are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)).

The Complainant has proven that the website to which the disputed domain name resolves offers goods, counterfeit or not, which are similar to those offered by the Complainant and includes the Complainant’s trademark BOSTIK, which leads Internet users to mistakenly think that the website is an official website of the Complainant and thereby the Respondent may capitalize on the prestige of the trademark BOSTIK for its own benefit.

The Panel finds that the Respondent registered and is using the disputed domain name in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

The Panel finds the third element of the Policy has been established.

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 <bostiksupplies.shop> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: August 26, 2024