

ADMINISTRATIVE PANEL DECISION

La Sportiva S.P.A. v. Ali levy
Case No. D2024-2344

1. The Parties

Complainant is La Sportiva S.P.A., Italy, represented by Ubilibet, S.L., Spain.

Respondent is Ali Levy, United States of America.

2. The Domain Name and Registrar

The disputed domain name <lasportiva.one> (the “Domain Name”) 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 10, 2024. On June 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to Complainant on June 13, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on the same day.

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 Respondent of the Complaint, and the proceedings commenced on June 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 7, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 15, 2024.



The Center appointed Clive L. Elliott K.C., as the sole panelist in this matter on July 17, 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

Complainant is an Italian company specializing in outdoor footwear and clothing for mountain sports, climbing, and trail running. It was founded in 1928 and has grown from a small family-owned business into a globally recognized brand with its products being distributed throughout Europe and North America.

Complainant is the registered owner of the trade mark LA SPORTIVA (Complainant's Mark) with 31 registrations across 47 territories worldwide, as follows, but not limited to:

Trade Mark	Jurisdiction	Registration No.	Registration Date	Class
LA SPORTIVA 	Austria, Bosnia and Herzegovina, Switzerland, Germany, Croatia, France, Serbia, Slovenia	502850	May 12, 1986	25
LA SPORTIVA	Canada	TMA449943	November 10, 1995	25
LA SPORTIVA	Bosnia and Herzegovina, China, Czech Republic, France, Croatia, Hungary, Poland, Russian Federation, Slovenia, Slovakia, Ukraine, Viet Nam	634504	December 28, 1994	18, 25, 28
LA SPORTIVA	New Zealand	244413	July 17, 1998	25
LA SPORTIVA	Australia	650037	January 5, 1995	25
LA SPORTIVA 	European Union	000270132	November 9, 1998	18, 25
LA SPORTIVA 	United Kingdom	00900270132	November 9, 1998	18, 25
LA SPORTIVA 	Austria, Switzerland, China, Germany, Spain, France, United Kingdom, Poland, Republic of Korea, Viet Nam	911432	July 14, 2006	18, 25, 28
LA SPORTIVA 	Australia, Bosnia and Herzegovina, Switzerland, China, Egypt, OHIM, Croatia, Indonesia, Republic of Korea, Morocco, Norway, Russian Federation, Türkiye, Ukraine, Viet Nam	1116929	March 30, 2011	6, 9, 18, 20, 22, 25, 28

<p>LA SPORTIVA</p> 	United Kingdom	00801116929	April 26, 2013	6, 9, 18, 25, 28
<p>LA SPORTIVA</p> 	China	9636622	October 28, 2013	25

According to the publicly available Whois the Domain Name was registered on March 11, 2024, and prior to the takedown action initiated by Complainant, displayed a page impersonating Complainant by reproducing Complainant's Mark and selling purportedly counterfeit products providing the appearance of being under Complainant's name or an authorized seller.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Complainant further contends that the Domain Name is identical to Complainant's Mark, as in its dispositive part, it contains Complainant's Mark in its entirety, with the generic Top-Level Domain ("gTLD") being ".one".

Complainant states that it is the legitimate right holder of Complainant's Mark and that it has not authorized, licensed or allowed any third party to use Complainant's Mark in any way, and therefore Respondent has no rights or legitimate interests to use or hold the Domain Name.

Complainant says that it sent a cease-and-desist letter to Respondent. When Respondent failed to respond, on March 20, 2024, Complainant initiated an abuse procedure via Respondent's service provider Cloudflare, utilizing the reporting procedure for the infringement occurring on the site. As a result, the site was taken down and there has been no response or communication from Respondent.

Complainant asserts that Respondent has registered and was using the Domain Name in bad faith by impersonating Complainant by using Complainant's Mark and selling counterfeit products in a deliberate attempt to gain an unfair advantage through registration and use of the Domain Name for commercial gain.

B. Respondent

Respondent did not reply to 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 Complainant's Mark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP

Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds Complainant’s Mark is immediately recognizable within the Domain Name. That is, on the basis that the Domain Name differs only to the extent of the addition of the gTLD “.one”. Accordingly, the Domain Name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Respondent may demonstrate rights or legitimate interests in a 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 respondent lacks rights or legitimate interests, the burden of production on this element shifts to respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Domain Name (although the burden of proof always remains on complainant). If respondent fails to come forward with such relevant evidence, complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

Complainant alleges that Respondent is selling counterfeit products in a deliberate attempt to gain an unfair advantage through registration and use of the Domain Name for commercial gain. Previous panels have found that activity such as here, the sale of counterfeit products, or like conduct, does not confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Furthermore, the Panel notes that even if the products offered through the website at the Domain Name were not counterfeits, the composition of the Domain Name creates a risk of implied affiliation with the Complainant.

Accordingly, 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, it is alleged, without rebuttal, that Respondent is impersonating Complainant by using Complainant’s Mark and selling purportedly counterfeit products.

Panels have held that the use of a domain name for illegal activity here the purportedly offering and or sale of counterfeit products, and impersonation of the Complainant constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. In addition, irrespective of whether the Complainant’s products are counterfeits or not, the Panel finds that the Respondent by using the Domain Name, 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. Having reviewed the record, the Panel finds Respondent’s registration and use of the Domain Name constitutes bad faith under the Policy.

The Panel finds that 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 Domain Name <lasportiva.one> be transferred to the Complainant.

/Clive L. Elliott K.C./

Clive L. Elliott K.C.

Sole Panelist

Date: August 9, 2024