

ADMINISTRATIVE PANEL DECISION

Sipchem Europe SA v. rajitha zoom, Zoom Consulting Solutions Pvt Ltd
Case No. D2024-2787

1. The Parties

The Complainant is Sipchem Europe SA, Switzerland, represented by Watson Farley & Williams (Middle East) LLP, United Arab Emirates.

The Respondent is rajitha zoom, Zoom Consulting Solutions Pvt Ltd, India.

2. The Domain Name and Registrar

The disputed domain name <sipchemicals.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 12, 2024. On July 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 15, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 16, 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 the same date.

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 July 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 8, 2024.

The Center appointed Nicholas Smith as the sole panelist in this matter on August 12, 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.

On August 14, 2024, following consideration of the content of the Complaint the Panel issued a Panel Order. The Panel Order was as follows:

Under the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), the Panel may, at its sole discretion request, in addition to the complaint and the response, further statements or documents from either of the Parties.

The Panel notes that:

- 1) The Amended Complaint states that "The disputed domain is active, but the website is parked and is being used for unauthorized advertisement causing reputational damage to the Complainant and the Sipchem brand." but the Amended Complainant does not provide any evidence, such as screenshots, that the Domain Name is or was active, parked, and/or being used for unauthorised advertisements.
- 2) The Amended Complaint at paragraph 25 and 26 states respectively that "It is obvious that the disputed domain is solely designed to mislead its users for commercial gain by misrepresenting itself as part of the Complainant's business." and "The Respondent does not even state a company name on its website." but provides no evidence of the Respondent misrepresenting itself as part of the Complainant's business or evidence of the Respondent's website (and the lack of a company name displayed on it).
- 3) The Amended Complaint states that the Domain Name is "only being used for malware and botnet activities as is show at the exhibited Annex 4. The IPs associated with the disputed domain name are also reported as malicious IPs as is shown at the exhibited Annex 5." The Panel notes that Annex 4 and 5 consist of partial screenshots of what is said to be "Security vendors' analysis" however: there is no evidence of who or what performed the analysis, the mechanism by which they reached their conclusion and the meaning of the results;
 - a. the documents exhibited are screenshots, not the analysis as a whole, which would provide appropriate context to the findings; and
 - b. annex 4 and 5 make findings about particular IP addresses however neither of these documents, nor any other documents annexed to the Complaint, provide evidence of the connection between the Domain Name and IP addresses referred to in Annex 4 and 5;

Therefore, the Panel makes the following orders:

- 1) The Complainant has until August 20, 2024, to file supplemental evidence addressing the issues identified above. This would include evidence of the manner in which the Domain Name has been used or is being used, and if the Complainant wishes to submit that the Domain Name is used for malicious activities; a complete security analysis including evidence linking the Domain Name with a particular IP address, an indication of what entity has conducted the security analysis and a proper explanation of the results.
- 2) The Respondent shall thereafter have until August 26, 2024, to file any response to the Complainant's supplemental evidence.
- 3) Any material should be submitted to the WIPO Arbitration and Mediation Center by email to [e-mail]@wipo.int for forwarding to the Panel.

The Panel will deliver its decision on or before August 30, 2024.

On August 20, 2024, the Complainant filed an additional submission titled “Letter from WFW to WIPO” which provides evidence of the use of the Domain Name for pay-per-click advertising, as well as further context and analysis of the use of the Domain Name for botnet advertising and confirmation that the security analysis annexed to the Complaint concerned the Domain Name.

The Respondent did not file a response to the additional submission by August 26, 2024 and hence the Panel therefore proceeds to its decision on the basis of the Complaint and additional submission.

4. Factual Background

The Complainant is a Swiss-based chemical company. The Complainant promotes its operations through its website at “www.sipchem.com”.

The Complainant has held a trademark registration for the word SIPCHEM (the “SIPCHEM Mark”) in various jurisdictions since 2019, through International trademark registration number 1,470,136 registered on April 18, 2019, for goods and services in classes 1, 17, 22, 35 designating countries including Australia, Japan, Republic of Korea (the), and the United States of America.

The Domain Name was registered on June 14, 2023. The Domain Name is presently inactive but prior to the commencement of the proceeding the Domain Name resolved to a website offering pay-per-click advertisements including advertisements for chemical products. The Complaint (including the additional submission) contains evidence of the Respondent’s website being used in connection with malware and botnet activities.

5. Parties’ Contentions

A. Complainant

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

Notably, the Complainant contends that:

- a) It is the owner of the SIPCHEM Mark, having registered the SIPCHEM Mark in various jurisdictions. The Domain Name is confusingly similar to the SIPCHEM Mark as it reproduces the word mark SIPCHEM in its entirety and adds the non-distinctive element “icals” to create the word “chemicals”.
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the SIPCHEM Mark. The Respondent is not commonly known by the SIPCHEM Mark, nor does it use the Domain Name for a bona fide purpose or legitimate noncommercial purpose. Instead, the Domain Name resolves to a pay-per-click site that advertises chemical products and the Domain Name is used for malware and botnet activities.
- c) The Domain Name was registered and is being used in bad faith. The Domain Name is being used for a series of malware and botnet activities that are part of a broader scheme to impersonate the Complainant and mislead users for personal gain. This amounts to an attempt to perpetuate fraud.

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 Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Panel finds 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 mark is reproduced within the Domain Name. Accordingly, the Domain Name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "icals" to create the word "chemicals", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the 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 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 Domain Name such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- Before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- The Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.

- The Respondent is not making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- The record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The use of the Domain Name for a parking page with pay-per-click links unrelated to a dictionary meaning of the Domain Name is not a bona fide offering of goods or services nor legitimate noncommercial or fair use.

The Panel notes the statements in the [WIPO Overview 3.0](#) on the question of whether “parked” pages comprising pay-per-click links support the respondent’s rights or legitimate interests. Section 2.9 of the [WIPO Overview 3.0](#) notes that:

“Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC [pay-per-click] links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users. Panels have recognized that the use of a domain name to host a page comprising PPC links would be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where the domain name consists of an actual dictionary word(s) or phrase and is used to host PPC links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant’s (or its competitor’s) trademark.”

In the present case, the Respondent’s use of the confusingly similar Domain Name to host a parking page with pay-per-click links referring to the chemical products offered by the Complainant does not, absent any further explanation, provide the Respondent with rights or legitimate interests in the Domain Name.

Furthermore, the Complaint (including the additional submission) contains evidence that the Respondent uses the Domain Name for malware and botnet activities. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, 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 considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s web site or location or of a product or service on the Respondent’s web site or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4 and hence the Respondent’s registration and use of the Domain Name constitutes bad faith under the Policy.

The Domain Name, which wholly incorporates the coined SIPCHEM Mark, resolved to a page offering pay-per-click links for which the Respondent most likely would receive some commercial gain. In these circumstances where the Respondent has offered no plausible or supported explanation for the registration of the Domain Name, the Panel finds that the Respondent was most likely aware of the Complainant at the time of registration and is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the SIPCHEM Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

Furthermore, the Complaint (including the additional submission) contains evidence of the use of the Domain Name for distributing malware. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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 <sipchemicals.com> be cancelled.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: August 27, 2024