

ADMINISTRATIVE PANEL DECISION

STOKOMANI v. Brown Sharop

Case No. D2024-2791

1. The Parties

Complainant is STOKOMANI, France, represented by Legrand Lesage-Catel, France.

Respondent is Brown Sharop, United States of America.

2. The Domain Name and Registrar

The disputed domain name <stokotoys.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 9, 2024. On July 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 10, 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 (Unidentified Respondent) and contact information in the Complaint. The Center sent an email communication to Complainant on July 11, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to Complaint on July 11, 2024.

The Center verified that the Complaint together with the amendment to 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 July 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 6, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 7, 2024.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on August 16, 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 a French company which specializes in destocking of third-party branded products and selling products under its own brands, being the French leader in the destocking of brand-name products business.

Complainant's business works through chain stores selling a wide range of products, including the fields of fashion, health and beauty, homeware, toys and leisure, outdoor products, school and office products, and technology products.

Complainant is the owner of trademark registrations for STOKO and STOKOMANI trademarks, and operates the domain name <stokomani.fr>, registered since December 28, 1999.

Some examples of Complainant's trademarks registrations for STOKO and STOKOMANI can be found below:

| Registration | Trademark | Jurisdictions | International Class | Registration Date |
|--------------|-----------|---------------|---------------------|-------------------|
| 4254035 | STOKO | France | 35, 39 | March 4, 2016 |
| 3927695 | STOKOMANI | France | 25, 35, 39 | June 18, 2012 |

The disputed domain name was registered on October 19, 2023, and resolves to a website in which Respondent apparently offers to selling diverse household products.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that the disputed domain name is confusingly similar to the trademarks STOKO and STOKOMANI, as well as with Complainant's domain name <stokomani.fr>, since it fully incorporates STOKO and partially incorporates STOKOMANI, with the sole addition of the generic word "toys" and the generic Top-level Domain name ("gTLD") ".com".

Therefore, according to Complainant, the disputed domain name is confusingly similar with Complainant's trademarks STOKO and STOKOMANI.

Moreover, Complainant contends that Respondent is not affiliated with Complainant and that no business or activities are conducted between them. Additionally, Complainant states that no license or authorization has been given for the use of the trademarks STOKO and STOKOMANI or for the registration of the disputed domain name by Respondent.

Complainant states that Respondent tries to mask its identity in the website which purports from the disputed domain name. In addition, Complainant informs that it was not able to locate an entity with the name "stokotoys" by searching online for the referred name.

In this manner, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent.

Complainant asserts that its business and the trademarks STOKO and STOKOMANI are well-known in France, considering that the company is the French leader of destocking of brand-name products under discounts. Complainant further notes that Respondent uses the disputed domain name to allegedly offer to sale discounted products from the same fields of the ones offered by Complainant, such as fashion, health and beauty, homeware, toys and leisure, and outdoor products.

Consequently, Complainant pledges that Respondent was necessarily aware of Complainant's reputation in the field of destocking when registering the disputed domain name; and that Respondent intentionally tries to create confusion with Complainant's rights and reputation in the discount sector to attract users to its website to obtain undue commercial gain.

Thus, according to Complainant, the requirements for the identification of a bad faith registration and use of the disputed domain name have been fulfilled.

Accordingly, Complainant requests transfer of the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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.

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

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 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.

Based on the available record, the Panel finds 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 STOKO 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.

The Panel finds that the disputed domain name is confusingly similar to Complainant's trademark STOKO, with the sole addition of the word "toys", which does not prevent a finding of confusing similarity between the disputed domain name and Complainant's trademark.

The disputed domain name consists also of the gTLD ".com". The applicable gTLD in a domain name, such as ".com" in this case, 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.

Based on the available record, 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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that Complainant argues that Respondent is likely using the disputed domain name to create confusion among Internet users and create the impression that Respondent’s website is affiliated with or endorsed by Complainant. Respondent has failed to refute said claim. Moreover, the composition of the disputed domain name by itself carries a risk of implied affiliation to Complainant, and as such, cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, Respondent is not entitled to any trademark, trade name, or any other right associated with the disputed domain name. Additionally, Respondent has not been authorized by Complainant to use the STOKO and/or STOKOMANI trademarks, and there is no commercial relationship between the Parties. Respondent is not recognized by the disputed domain name, and the Panel notes that such resolves to a website in which Respondent allegedly offers products related to the ones destocked by Complainant in its business. In light of these circumstances, the panel finds that no rights or legitimate interests can be found on behalf of Respondent.

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 Respondent has registered the disputed domain name that is confusingly similar to Complainant’s trademarks STOKO and/or STOKOMANI, as explained above in section 6.A. Also, based on the available record, Respondent has no affiliation with Complainant and the trademarks STOKO and/or STOKOMANI, nor has it sought authorization or a license to utilize the referred trademarks. Respondent does not own any trademarks containing the term “stoko”.

Furthermore, considering Complainant’s significant reputation in France in connection with destocking of brand-name products business, Respondent evidently knew or should have known of the existence of Complainant’s prior trademark rights and domain name, which were matters of public record, before registering the disputed domain name. Thus, Respondent must have had knowledge of Complainant’s pre-existing rights in STOKO and/or STOKOMANI as a trademark and a domain name. Therefore, it may be inferred that the registration of the disputed domain name was intentionally done with the aim profiting from the reputation of Complainant’s trademarks in question. This action creates a likelihood of confusion among

Internet users, considering specially that Respondent allegedly sells products in the website which purports from the disputed domain name which are alike with the ones offered by Complainant, suggesting an association with Complainant and implying that the disputed domain name is associated or belongs to Complainant.

The disputed domain name resolves to a webpage in which Respondent allegedly offers to sell products related to the ones offered by Complainant in its business, in an attempt to create likelihood of confusion in the users to attract undue commercial gain boosted by Complainant's trademarks STOKO and/or STOKOMANI reputation.

Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The UDRP panel in *Twitter, Inc. v. Whois Agent, Whois Privacy Protection Service, Inc. / Domain Support*, WIPO Case No. [D2015-1488](#) came to a conclusion:

"The Panel notes that Respondent's use of the website at the Domain Name which incorporates Complainant's trademark in its entirety indicates that Respondent possibly registered the Domain Name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, as per paragraph 4(b)(iv) of the Policy. Furthermore, the Panel accepts Complainant's undisputed submission that bad faith registration and use of the Domain Name is further indicated by the fact that there is strong suspicion of Respondent using the Domain Name in an elaborate common phishing scam."

The Panel finds that the circumstances of the present case allows a finding of bad faith in the registration and use of the disputed domain name, considering that (i) Respondent would likely obtain commercial gain by using a confusingly similar disputed domain name to Complainant's trademark; and (ii) Respondent was most likely aware of Complainant's rights on the trademarks STOKO and/or STOKOMANI, considering specially that Respondent offers to sell products very much alike the ones usually offered by Complainant in its business, and aimed to create a likelihood of confusion within Internet users to suggest an affiliation with Complainant.

Lastly, the Panel finds it is relevant that Respondent has not provided any evidence of good faith registration or use, or otherwise participated in this dispute.

Based on the available record, 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 disputed domain name <stokotoys.com> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: August 30, 2024