

ADMINISTRATIVE PANEL DECISION

SCAT Enterprises, LLC v. Tran Van Bac

Case No. D2024-3082

1. The Parties

The Complainant is SCAT Enterprises, LLC, United States of America (“United States”), represented by Dentons Durham Jones Pinegar, United States.

The Respondent is Tran Van Bac, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <procarseatcover.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 July 26, 2024. On July 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 30, 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 (E-COMMERCE PROCARSEATCOVER LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 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 August 6, 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 August 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 28, 2024.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on September 2, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant claims to have offered since January 15, 1980, under the trademark PROCAR, goods covered by its United States trademark registration No. 4024410 for PROCAR, registered on September 13, 2011, covering "Vehicle seats, custom vehicle seats; vehicle seat accessories; seat covers" and similar goods in class 12.

The Complainant also owns the domain name <procarbyscat.com> which resolves to a website through which the Complainant's goods are offered.

The disputed domain name was registered on December 31, 2023, and resolves to a webpage offering goods similar to the goods offered by the Complainant.

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 that it has prominently and extensively used, promoted, and advertised the trademark PROCAR and its domain name for over 40 years. By virtue of these efforts, both the trademark and the domain name <procarbyscat.com> have become well recognized by consumers as designating the Complainant as the source of the goods so marked. Accordingly, the trademark PROCAR and the domain name are extremely valuable to the Complainant.

The Respondent registered the disputed domain name on December 31, 2023, long after the Complainant registered the PROCAR mark with the United States Patent and Trademark Office and long after the Complainant began using the PROCAR mark.

The Respondent is not a licensee of the Complainant nor is the Respondent otherwise authorized to use the Complainant's PROCAR mark for any purpose.

Upon information and belief, the Respondent is not commonly known as the disputed domain name.

The disputed domain name directs users to a website for customized car seat covers, which goods are clearly covered by the Complainant's PROCAR mark.

The Complainant has received actual complaints from the Respondent's customers believing that they had purchased the Complainant's goods. Specifically, the Complainant received a complaint from a customer who had ordered a seat cover for their 2013 Dodge Challenger from the website at the disputed domain name. The customer never received an email or documentation from the Respondent, the seat cover the customer received did not fit their 2013 Dodge Challenger, and the customer contacted the Complainant to resolve the issue.

Accordingly, there is actual confusion in the marketplace between the Complainant's mark as the source of goods and the Respondent's website. This actual confusion is causing harm to the Complainant's reputation in the marketplace as a source of goods under the PROCAR mark.

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.

Although the addition of other terms here, "seat" and "cover" 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 disputed 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 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.

Further, the composition of the disputed domain name which combines the Complainant's trademark with a term referring to the goods also offered by the Complainant, suggests an affiliation with the Complainant. UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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 finds it more likely than not that the Respondent was aware of the Complainant's business and trademark PROCAR mentioned in section 4 above (Factual Background) and also the Complainant's website to which its domain name resolves to when the Respondent registered the disputed domain name on December 31, 2023. By that time the Complainant had registered and used the trademark PROCAR for many years and the Respondent has not provided any explanation why it has registered the disputed domain name.

By registering the disputed domain name, it is likely that the Respondent aimed to target the Complainant and its business by incorporating the Complainant's trademark PROCAR in the disputed domain name in its entirety. The addition of the terms "seat" and "cover" only contribute to increase confusion as they are descriptive of the competing goods.

The fact that there is 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, namely seat covers which are similar to those offered by the Complainant and includes the Complainant's trademark PROCAR 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 PROCAR 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 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 <procarseatcover.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: September 9, 2024