

## **ADMINISTRATIVE PANEL DECISION**

Knorr-Bremse AG v. Selina Franklin  
Case No. D2024-3208

### **1. The Parties**

The Complainant is Knorr-Bremse AG, Germany, represented by Bardehle Pagenberg Partnerschaft mbB, Germany.

The Respondent is Selina Franklin, Switzerland.

### **2. The Domain Name and Registrar**

The disputed domain name <knorr-bremsr.org> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 5, 2024. On August 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 7, 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 (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 7, 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 amendment to the Complaint on August 7, 2024.

The Center verified that the Complaint together with the amendment to the 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 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 30, 2024.

The Center appointed Federica Togo as the sole panelist in this matter on September 9, 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**

It results from the Complainant's undisputed allegations that it is a developer and manufacturer of braking systems for rail and commercial vehicles. It was founded in Berlin already in 1905 by Mr. Georg Knorr, one of the world's pioneers in the development of braking systems. Today, the Complainant is one of the world's leading developers and manufacturers of braking systems, with over 19,000 employees and worldwide sales of more than EUR 4 billion. The Complainant, based in Munich, Germany, has established over 90 locations in 27 countries throughout the world.

The Complainant is the registered owner of many trademarks for KNORR BREMSE, e.g., International trademark registration no. 726778 KNORR-BREMSE, registered on October 20, 1999 for goods and services in classes 07, 09, 11, 12, 37 and 41, designating many countries worldwide, amongst others European Union and Switzerland.

In addition, it uses several domain names containing the designation KNORR-BREMSE and in particular it uses the domain name <knorr-bremse.com> (created on January 27, 1997) to resolve to its official website for promoting its products and services.

The disputed domain name <knorr-bremsr.org> was registered on July 22, 2024. Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolves to a website displaying without authorization the Complainant's registered trademark, logo, and images allegedly offering an "investment platform" and some financial services.

#### **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 the disputed domain name is confusingly similar to the Complainant's trademark since the only difference is the misspelling of the word "Bremse" with an "r" instead of an "e" in the end. The disputed domain name thus consists of a "classical" typo or misspelling of the mark. This difference – the misspelling "bremsr" – is clearly not sufficient to distinguish the Respondent or the goods and services offered under the disputed domain name from the Complainant.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, no license or authorization of any other kind has been given by the Complainant to the Respondent to use the disputed domain name. The disputed domain name is used for an "investment platform" and some financial services. While this is not directly related to the Complainant's business, it must be noted that the website under the disputed domain name, using pictures of some of the Complainant's premises, executives and employees, all with the Complainant's logo, is aimed to take advantage of the reputation of the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, when registering the disputed domain name, the Respondent acted intentionally, at least he should have known about the prior rights of the Complainant in the designation KNORR-BREMSE. In addition, the Respondent is using the disputed domain name being almost identical

with and a misspelling of the Complainant's mark in order to generate traffic to websites relating to some (obscure) financial services, by exploiting the reputation of the Complainant and its brand. Further, use of a domain name consisting of a misspelling or typo of the Complainant's mark is an indication of bad faith.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that a disputed domain name be transferred or cancelled:

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

(ii) the 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 Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

### **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 Panel finds the mark is recognizable 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.

In addition, it is the view of this Panel that the final consonant "r" instead of the vocal "e" in the disputed domain name results to be a common, obvious, or intentional misspelling of the Complainant's trademark, and cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark since the disputed domain name contains sufficiently recognizable aspects of the relevant mark (see [WIPO Overview 3.0](#) at section 1.9).

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.

Moreover, the Panel notes that the disputed domain name consists of a common, obvious, or intentional misspelling of the Complainant’s registered trademark KNORR-BREMSE (by replacing the final vowel “e” with the consonant “r”) so that this Panel finds it most likely that employing a misspelling in this way signals an intention on the part of the Respondent to confuse users seeking or expecting the Complainant. Moreover, the Panel notes that more likely than not, this trademark is not a trademark that one would legitimately adopt as a domain name unless to suggest an affiliation with the Complainant. The Panel finds it most likely that the Respondent registered the disputed domain name with the intention to take advantage of the Complainant’s reputation by registering the disputed domain name containing (a misspelling of) the Complainant’s trademark with the intent to mislead Internet users.

This is also confirmed by the content of the website to which the disputed domain name resolves allegedly offering an “investment platform” and some financial services and displaying without authorization the Complainant’s trademark, logo, and images.

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 shares the view of other UDRP panels and finds that the Complainant’s trademark KNORR-BREMSE is well known. Therefore, this Panel has no doubt that the Respondent positively knew or should have known the Complainant’s trademark when registering the disputed domain names. This is underlined by the fact that the disputed domain name is clearly constituted by a misspelling of the Complainant’s trademark KNORR-BREMSE (by replacing the final vowel “e” with the consonant “r”). Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith, [WIPO Overview 3.0](#) section 3.1.4. The Panel shares this view.

Furthermore, the Panel notes that it results from the Complainant’s documented allegations that the disputed domain name resolves to a website displaying without authorization the Complainant’s registered trademark, logo, and images allegedly offering an “investment platform” and some financial services.

For the Panel, it is therefore evident that the Respondent positively knew the Complainant’s mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant’s trademark when it registered the disputed domain name, and that the Respondent used the disputed domain name in bad faith.

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 <knorr-bremsr.org> be transferred to the Complainant.

*/Federica Togo/*

**Federica Togo**

Sole Panelist

Date: September 23, 2024