

ADMINISTRATIVE PANEL DECISION

Fabbrica d'Armi Pietro Beretta - S.P.A. v. AJAY KUMAR PANDEY, BERETTA HOLDINGS PTE. LTD.

Case No. D2024-3243

1. The Parties

Complainant is Fabbrica d'Armi Pietro Beretta - S.P.A., Italy, represented by Dennemeyer & Associates S.A., Luxembourg.

Respondent is AJAY KUMAR PANDEY, BERETTA HOLDINGS PTE. LTD., Singapore.

2. The Domain Name and Registrar

The disputed domain name <berettaholdings.com> 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 August 7, 2024. On August 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 8, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on August 16, 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 the Complaint on August 19, 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 Respondent of the Complaint, and the proceedings commenced on August 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on September 11, 2024.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on October 4, 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, Fabbrica d'Armi Pietro Beretta - S.P.A., is an Italian company that specializes in manufacturing firearms for a variety of civilian, law enforcement and military purposes. Complainant owns and uses the mark BERETTA in connection with its firearms and shooting clothes and accessories. Complainant owns a number of trademarks registrations for its BERETTA mark. These include, inter alia, (i) a European Union registration (Registration No. 009743543) which issues to registration on June 28, 2011, (ii) an International Registration (Registration No. 147879) which issued to registration on July 7, 1950, and which designated multiple European Union countries, and (iii) an Indian registration (registration No. 2141032) which issued to registration on May 6, 2011. Complainant's affiliate and holding group, Beretta Holding S.A., owns a trademark registration in the European Union for BERETTA HOLDING & Design (Registration No. 018865061) which issued to registration on August 30, 2023. Lastly, Complainant owns and uses the domain names <beretta.com> and <berettaholding.com> which are used for websites concerning Complainant, its brands, and products.

Respondent appears to be based in Singapore. Respondent registered the disputed domain name on February 28, 2024. At some point thereafter, Respondent posted a website at the disputed domain name for a global investment holding company based in India.

Complainant, through its representative, sent Respondent a demand letter on or about May 14, 2024. No response was ever received. Respondent's website for its global investment holding company is still available at the disputed domain name.

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 BERETTA mark is well known on account of its longstanding use since 1526 and "has been a staple within the hunting, sporting and defense community for centuries." Complainant further contends that the disputed domain name is identical or confusingly similar to the BERETTA and BERETTA HOLDING marks as it fully incorporates the BERETTA mark and merely adds the letter "s" to the BERETTA HOLDING name and mark.

Complainant argues that Respondent does not have a legitimate interest in the disputed domain name as Respondent (i) does not have a license or authorization from Complainant to use the BERETTA mark, and (ii) is using the disputed domain name for a website promoting an alleged global company based in India. In that regard, Complainant notes that Respondent's website provides no contact information for the alleged company and that the company cannot be found in a Google search or in the Indian Ministry of Corporate Affairs register.

Lastly, Complainant asserts that Respondent has registered and used the disputed domain name in bad faith as the disputed domain name fully contains the distinctive BERETTA and BERETTA HOLDING marks and thus falsely gives the impression that the website at the disputed domain name is authorized or connected to Complainant. In addition, Complainant further asserts that Respondent is using the disputed to domain

name to take advantage of the well-known BERETTA mark in order to attract and redirect web users to Respondent's website.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

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

Here, Complainant has shown rights in its BERETTA and BERETTA HOLDING & Design marks for purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel finds that the disputed domain name is confusingly similar to Complainant's BERETTA mark as the disputed domain name fully incorporates the BERETTA mark and with regard to the BERETTA HOLDING mark simply adds the letter "s" at the end of the word "holding."

The first element of the Policy has thus been established by Complainant.

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.

Respondent's registration of the disputed domain name that is clearly based on the BERETTA mark does not seem coincidental given the notoriety of the BERETTA name and mark. Notably, Respondent, who has chosen not to appear in this proceeding and is possibly based in Singapore, does not appear to be commonly known by the name or mark BERETTA, particularly as the purported global company promoted on Respondent's website, a company allegedly headquartered in India, may not, in fact, be a real entity. The website at the disputed domain name, for example, claims that the company operates in thirteen countries through seventeen companies. However, not a single contact address is provided on the website for any of Respondent's claimed companies. Moreover, all of the claimed sectors the company operates in, such as "banking," "mining," "manufacturing," and "commodity trading," are simply headers with no underlying information, and searches by Complainant for Respondent's purported "Beretta Holdings" company on Google and the Indian Ministry of Corporate Affairs did not provide any information on this "global" company.¹

In all, it seems more likely than not that Respondent registered the disputed domain name that plays upon Complainant's BERETTA mark and name as a way to drive web traffic to Respondent's website for Respondent's profit. Such use of the disputed domain name does not amount to a bone fide use or provide Respondent with a legitimate interest in the disputed domain name. See [WIPO Overview 3.0](#) at section 2.5.3.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for 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 this matter, Respondent has registered and used the disputed domain name that plays upon Complainant's BERETTA mark, a mark that enjoys a certain reputation, and used such with a website promoting an alleged global company. The disputed domain name and associated website are likely to be seen by consumers as connected to or authorized by Complainant, when such is not the case. Given Respondent's actions and failure to provide a formal Response, it appears from the evidence before the Panel that Respondent was likely aware of Complainant and its BERETTA and BERETTA HOLDING names and marks and registered and used the disputed domain name for purposes of attracting web users to a website essentially promoting Respondent's purported global company. Simply put, the evidence before the Panel, none of which of which is contested by Respondent, makes it more likely than not that Respondent opportunistically registered and used the disputed domain name to intentionally and misleadingly attract Internet users to Respondent's website for Respondent's own profit. See [WIPO Overview 3.0](#) at Section 3.1.4 (and cases cited therein).

Accordingly, the Panel finds that Complainant succeeds under this element of the Policy.

¹ The Panel did run a Google search for Beretta Holdings PTE Ltd and notes that there is a listing for this company in Singapore. It is not clear, though, whether this company is related to Respondent, given that Respondent has not appeared in this proceeding. Nevertheless, whether this company is something more than a shell entity is questionable. The publicly available abstracts for this company, apparently incorporated in 2024, specify that the company's principal activity is the "wholesale trade of a variety of goods without a dominant product." The Panel also notes that the RVR-confirmed email address for the Respondent is connected to a Gmail account. Moreover, as previously noted, a search for Respondent's purported "Beretta Holdings" company on the Indian Ministry of Corporate Affairs did not provide any information on this company.

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 <berettaholdings.com> be transferred to Complainant.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: October 18, 2024