

ADMINISTRATIVE PANEL DECISION

SKW Schwarz Rechtsanwälte Steuerberater Partnerschaft mbB v.
Name Redacted
Case No. D2024-3423

1. The Parties

The Complainant is SKW Schwarz Rechtsanwälte Steuerberater Partnerschaft mbB, Germany, internally represented.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <skwschwarz-muenchen.com> is registered with Wix.com Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 21, 2024. On August 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 28, 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 (Wix.com Ltd.) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 29, 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 September 3, 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”).

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 9, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on October 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

The Complainant is a large and widely recognized law firm with several locations in Germany.

The founding partner of the Complainant is the registered owner of the SKW SCHWARZ trademark, namely the European Union Trademark Registration No. 008571176, registered on September 5, 2013, and the German Trademark Registration No. 30 2009 017 917, registered on July 16, 2009, both covering protection inter alia for legal services.

The Complainant is entitled by the founding partner to exclusively use the SKW SCHWARZ trademark.

The Complainant further operates its main website at "www.skwschwarz.de".

The Respondent is reportedly an individual, whose name is redacted since a third party may have used her or his identity for registering the disputed domain name without her or his consent.

The disputed domain name was registered on July 5, 2024.

The disputed domain name resolves to a website virtually identical to the Complainant's official website, falsely indicating that the Complainant is the operator of the website linked to the disputed domain name. As evidenced by documents provided by the Complainant, the disputed domain name and respective email addresses have already been used to mislead individuals about alleged (actually not existing) job openings at 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.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable and on the basis of the Complaint where no substantive response has been submitted.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

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

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel might, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of the SKW SCHWARZ trademark 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 SKW SCHWARZ mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "-muenchen", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 Panel particularly notes that the nature of the disputed domain name comprising the SKW SCHWARZ trademark together with

a geographic term, and the content and design of the associated website, as well as the use of the disputed domain name to impersonate the Complainant for fraudulent purposes indicate awareness of the Complainant and its SKW SCHWARZ trademark and the illicit intent to take unfair advantage of such, which does not support a finding of any rights or legitimate interests.

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, while the Panel notes that the Respondent appears to have provided incorrect Whois information and falsely identified itself, in using someone else's name and contact details when registered the disputed domain name.

Panels have held that the use of a domain name for illegal activity, here, claimed impersonation and other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that at the date of registration of the disputed domain name, the SKW SCHWARZ trademark had already been registered and widely used for many years. It is obvious to the Panel that the disputed domain name has been deliberately chosen to target the Complainant and Internet users searching for the Complainant.

This finding is supported by the use of the disputed domain name is associated to a website virtually identical to the Complainant's official website, which in view of the Panel is compelling evidence that the true registrant of the disputed domain name intentionally tried to misrepresent itself as the trademark owner to mislead Internet users for illegitimate, probably fraudulent purposes.

In this regard, the Panel further notes that the Respondent for the disputed domain name as indicated by the Registrar (whose name is redacted for the purpose of this Decision) is obviously a victim of identity theft. In view of the Panel, the fact that this disputed domain name was registered using stolen personal information further demonstrates that the disputed domain name was registered and is being used for illicit purposes.

Panels have held that the use of a domain name for illegal activity, here claimed impersonation and other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

In fact, the Panel is convinced that this is a typical cybersquatting case, which the UDRP was designed to stop.

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 <skwschwarz-muenchen.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: October 30, 2024