

ADMINISTRATIVE PANEL DECISION

Dirk Rossmann GmbH v. pingping mao
Case No. D2024-4313

1. The Parties

Complainant is Dirk Rossmann GmbH, Germany, represented by Horak.Rechtsanwälte Partnerschaft mbB, Germany.

Respondent is pingping mao, China.

2. The Domain Name and Registrar

The disputed domain name <rival-de-loop.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 10, 2024. On October 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 21, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on October 22, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 26, 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 Respondent of the Complaint, and the proceedings commenced on October 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 22, 2024.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on November 27, 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

Given the limited factual record provided by Complainant, and in the interests of reaching a fair and informed result, the Panel conducted limited independent research, as permitted by paragraph 10 of the UDRP Rules. See, section 4.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Specifically, the Panel checked the content hosted at Respondent's website under the disputed domain name (at the time of the decision) and gathered information from Complainant's website about Complainant's business.

The Panel revealed that Complainant is a drugstore chain in Germany that sells its products in physical stores and through its website. One of its brands for cosmetics is the trademark that the Complaint is based on.

Complainant holds the International Trademark Registration for the word mark RIVAL DE LOOP, registration No. 1367326, registered on April 5, 2017, designating multiple jurisdictions and specifying products and services in multiple classes.

The registration remains in effect and will hereafter be referred to as the "Trademark".

The disputed domain name was registered on July 30, 2024, and resolved to a website that displays the RIVAL DE LOOP logo as used by Complainant in the upper left corner of each page. On the website cosmetics are displayed, identical to products offered by Complainant. All kinds of information is given about these products. It should, however, be noted that, at least at the time of the Panel's research, the products are described in detail, including the price, but the products are not available for purchase.

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 is identical to the Trademark as it includes it in its entirety.

Respondent uses the disputed domain name with the intention to mislead and divert Internet consumers or to tarnish the Trademark at issue. In particular, Respondent utilizes products of Complainant including the Trademark on the website. Furthermore, Respondent has not been commonly known by the disputed domain name.

Complainant also contends that the disputed domain name is used in bad faith. In particular, the disputed domain name was registered after Complainant's trademark rights accrued and used primarily for the purpose of disrupting the business of Complainant.

Visiting the website under the disputed domain name, the user will get the opinion to receive information to products of Complainant directly. Statements as "Das meinen unsere Kunden" (English: "What our customers think") or "Rival De Loop Verkäufe heute" (English: "Rival De Loop sales today") imply that Respondent is a seller, vendor, or supplier of products represented on the sites. However, all products shown on the websites correspond to the products of Complainant.

In addition, all contact information represented on the disputed domain name is incorrect.

Products represented on the website of the disputed domain name are identical to Complainant's products. Accordingly, by using the disputed domain name, Respondent intentionally attempted to attract Internet users to Respondent's website by creating a likelihood of confusion with the Trademark.

According to Complainant, its lawyer asked Respondent (by e-mail via the registrar) to voluntarily transfer the disputed domain name within one day, but no reply was received.

Complainant requests that the disputed domain name be transferred to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements in order to succeed in its Complaint:

(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 proof of each element is borne by Complainant. Respondent's default does not by itself mean that Complainant is deemed to have prevailed. See WIPO Overview, section 4.3.

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 3.0](#), section 1.7.

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 is reproduced within the disputed domain name, with only the addition of hyphens between the words. 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 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 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 Respondent. As such, where a complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, 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.

As said above, the disputed domain name resolves to a website offering information on the Complainant and its products. It does not appear that any products are offered for sale. Looking at the criteria by which panels have assessed claims to rights or legitimate interests in fan sites or by resellers (respectively, [WIPO Overview 3.0](#), sections 2.7 and 2.8), the Panel notes that the disputed domain name is essentially identical to the Complainant's trademark for purposes of the Policy. Such identity carries a high risk of implied affiliation as the disputed domain name may be misunderstood by Internet users as being somehow sponsored or endorsed by the Complainant. [WIPO Overview 3.0](#), section 2.7.2. Further, panels have held that the use of a domain name for illegitimate activity here, claimed impersonation, 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.

In the present case, the Panel notes that Respondent registered the disputed domain name long after Complainant filed its Trademark in connection with its aforementioned goods and services. Respondent's registration of a domain name that is nearly identical to Complainant's Trademark, the use of Complainant's logo and displaying goods that Complainant offers and sells, strongly suggests that Respondent was aware of Complainant and its Trademark.

Therefore, the Panel finds that the disputed domain name was registered 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.

The website to which the disputed domain name resolves, does not offer products for sale, but gives the impression that it is an official website of Complainant. That impression is established by the fact that Respondent pictures Complainant's products, describes them in detail, and uses Complainant's logo at the top left of every page. In addition, the "Über uns" (English: "About us") page states that this is the "offiziellen Website von Rival De Loop®" (English: "Official website of Rival De Loop®"). On Respondent's website the Registered Trademark symbol (®) is used several times behind RIVER DE LOOP. This use also contributes to the misleading impression that this is the website of the trademark owner. This impersonation constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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

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 <rival-de-loop.com> be transferred to Complainant.

/Richard C.K. van Oerle/

Richard C.K. van Oerle

Sole Panelist

Date: December 5, 2024.