

ADMINISTRATIVE PANEL DECISION

Multi-Wing Group A/S v. Patrick Hogrefe, WingFan Ltd. & Co. KG
Case No. D2024-4423

1. The Parties

The Complainant is Multi-Wing Group A/S, Denmark, represented by DLA Piper Denmark Law Firm P/S, Denmark.

The Respondent is Patrick Hogrefe, WingFan Ltd. & Co. KG, Germany, internally represented.

2. The Domain Name and Registrar

The disputed domain name <multiwing.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 29, 2024. On October 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 29, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 October 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2024. The Response was filed with the Center on November 23, 2024, after a request for an extension of time to file the Response was granted under paragraph 5(b) of the Rules.

The Center appointed Adam Taylor 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.

On December 7, 2024, the Complainant emailed the Center seeking an opportunity to comment on the Response.

On December 11, 2024, the Panel issued Procedural Order No. 1 ("PO1") inviting the Complainant to comment on the Response and the Respondent to respond to any such submission by the Complainant. The Complainant and the Respondent filed submissions on December 13 and 16, 2024, respectively. The Panel refers below to the contents thereof insofar as material to its decision.

4. Factual Background

The Complainant's group has supplied custom axial fans and impellers for use in industrial applications under the mark MULTI-WING for some 65 years, including for over 20 years in Germany.

The Complainant owns European Union Trade Mark No. 000129809 for MULTI-WING, registered on June 15, 1998, in classes 7 and 11.

The Complainant operates a website at "www.multi-wing.com".

The Complainant and the Respondent (through their predecessors) entered into a "Know-How and License Agreement" ("the Licence Agreement") under German law dated February 4, 1999, under which the Complainant granted the Respondent the exclusive right to manufacture and sell certain impeller models in Germany and seven other European countries from January 1, 1999, to December 31, 2008, replacing a 1995 contract between the parties. Clause 2.1 provided that the products had to be sold under the MULTI-WING trade mark and that "[a]fter any potential separation", both parties may continue to use the trade mark.

The Respondent registered the disputed domain name on April 6, 2000.

The Licence Agreement was terminated in 2001.

On or around September 18, 2024, the disputed domain name resolved to a website offering cooling and fan systems under the mark WINGFAN GROUP.

The Complainant sent a cease and desist letter to the Respondent on September 18, 2024.

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.

The following is the gist of the Complainant's contentions:

- the disputed domain name is identical to the Complainant's trade mark;
- the Respondent lacks rights or legitimate interests on the basis that the Respondent has not¹ used the disputed domain name in connection with a bona fide offering of goods or services;
- the disputed domain name has been used, and is presumed intended for continued use, in violation of the Complainant's trade mark rights, including the Respondent's marketing and sale of similar goods and services; and
- the Respondent has registered and used the disputed domain name to create a likelihood of confusion with the Complainant's mark in accordance with paragraph 4(b)(iv) of the Policy.

¹ In fact, the Complaint states that the Respondent has used the disputed domain name in connection with a bona fide offering, but the Panel assumes that the Complainant intended to state the opposite.

B. Respondent

The Respondent contends that the Complainant has failed to satisfy the second element required under the Policy for a transfer of the disputed domain name.

Notably, the Respondent submits that:

- the parties have cooperated closely for some 40 years based on the Licence Agreement, which was “unilaterally and prematurely” terminated by the Complainant in 2001;
- the Respondent played a crucial technical role in the parties’ collaboration and in the worldwide success of the MULTI-WING brand;
- the Complainant sent a legal letter to the Respondent in 2006 regarding the redirection of certain country-specific domain names to the Respondent’s website, following which the Respondent suspended the redirection without admission of liability but no resolution was reached;
- in October 2024, another law firm sent a cease and desist letter, which the Respondent rejected with reference to the Licence Agreement; and
- the Respondent has continuing legitimate interests in the disputed domain name arising from clause 1.2 of the Licence Agreement, and has built up long-term goodwill arising from ownership of the disputed domain name for over 20 years.

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 trade mark 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 trade mark 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, disregarding the hyphen. Accordingly, the disputed domain name is identical to the mark 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

It is unnecessary to consider this element in view of the Panel’s conclusion under the third element below.

C. Registered and Used in Bad Faith

As noted in section 4 above, the Respondent registered the disputed domain name on April 6, 2000, following signature of the Licence Agreement in 1999 and before its termination in 2001.

Neither the Complaint, nor the Complainant’s legal letter of September 18, 2024, annexed to the Complaint, made any mention of the Licence Agreement. Both documents proceeded as if there had been no prior business relationship between the parties.

Having been given an opportunity to comment on the Licence Agreement in PO1, the Complainant disputes that this entitles the Respondent to use the disputed domain name, including on the grounds that the Licence Agreement only permitted marketing of specific products under the MULTI-WING mark and that the Licence

Agreement was limited to specific countries whereas the disputed domain name is “an international .com domain”.

However, it is neither within the role nor the competence of the Panel to engage in a detailed assessment of the ambit of the Licence Agreement. Rather, the issue for the Panel is whether or not the Complainant has established that, on the balance of probabilities, the Respondent both registered and used the disputed domain name in bad faith.

Here, the Complainant has not provided any evidence which indicates to the Panel that, when the Respondent registered the disputed domain name in 2000 in the context of (a) the then-current Licence Agreement, which granted the Respondent the exclusive right to market certain products under the MULTI-WING mark, and (b) an earlier business relationship that extended back to at least 1995, the Respondent possessed a bad faith motive in relation to the Complainant.

The Complainant relies on the Respondent’s use of the disputed domain name on September 18, 2024, to resolve to a website selling competing products under the Respondent’s WINGFAN GROUP brand. Whether or not this activity breached the Licence Agreement, or infringed the Complainant’s trade mark rights, which are both matters outside the scope of this proceeding, the Panel does not consider that such use of the disputed domain name is of any relevance to the Respondent’s state of mind when registering the disputed domain name some 24 years earlier in the course of the now-terminated Licence Agreement.

Even if the Respondent’s actions in September 2024 did amount to use of the disputed domain name in bad faith (as to which the Panel expresses no view), the Complainant has still failed to prove the other essential limb of the third element, namely that the Respondent registered the disputed domain name in bad faith in 2000.

Accordingly, the Panel finds the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: December 20, 2024