

ADMINISTRATIVE PANEL DECISION

Dirk Rossmann GmbH v. bebei liu
Case No. D2024-4454

1. The Parties

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

The Respondent is bebei liu, China.

2. The Domain Name and Registrar

The disputed domain name <rivallovesme.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 26, 2024. On October 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 November 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 5, 2024.

The Center appointed Andrea Mondini as the sole panelist in this matter on December 10, 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 was founded in 1972, has over 62,000 employees and operates more than 4,700 drug stores under the brand ROSSMANN in several European countries.

The Complainant owns the European Union Trademark Registration  no. 0 18010643 registered on September 10, 2019, in international classes 3, 5, 8, 16, 18, 20, 21 and 35 and uses this trademark for cosmetic products.

Because the Respondent did not file a Response, not much is known about the Respondent.

The disputed domain name was registered on July 30, 2024.


According to the evidence submitted with the Complaint, the disputed domain name resolves to a website purporting to offer cosmetic products marked with the Complainant's trademark.

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 as follows:

The disputed domain name is confusingly similar to the trademark  in which the Complainant has rights.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the disputed domain name and uses the disputed domain name with the intention to mislead and divert consumers or to tarnish the Complainant's mark. In particular, the Respondent uses products of the Complainant including the trademarks on the website posted under the disputed domain name.

The Respondent registered and is using the disputed domain name in bad faith because it was registered after the registration of the Complainant's trademark and is used primarily for the purpose of disrupting the business of the Complainant. Visiting the website posted under the disputed domain name, Internet users are misled into believing to receive product information from the Complainant directly. Testimonials such as "*Das meinen unsere Kunden*" (engl. Translation "That's what our customers think") imply that the Respondent is a seller, vendor, or supplier of the products shown on this website. However, all products shown on this website correspond to the products of the Complainant. In addition, the contact information provided on the Respondent's website is incorrect or includes obviously false information such as "*Musterstraße 123, 12345 Musterstadt*" (corresponding in English to "Sample Street 123, Sample City 12345"). The products depicted on the website posted under the disputed domain name are identical to the Complainant's products. Accordingly, by using the disputed domain name, the Respondent intentionally attempted to attract Internet users to the Respondent's web site by creating a likelihood of confusion with the Complainant's trademarks.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark 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.

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 heart symbol within the Complainant's trademark is commonly understood to mean "love". While the figurative element of a complainant's trademark is incapable of representation in a domain name in its figurative form, the Panel finds the meaning of the figurative component of the Complainant's mark is reproduced along with the textual components of the Complainant's mark within the disputed domain name.

The addition of the generic Top-Level Domain ("gTLD") ".com" in the disputed domain name is a standard registration requirement and as such may be disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.1.

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 for a complainant to prove that 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 Complainant has shown that the Respondent posted a website under the disputed domain name offering the Complainant's products. Based on the available record, the Panel cannot ascertain whether the products depicted on the Respondent's website are genuine or not. But even if those products were genuine, the Respondent's use of these disputed domain name would not meet the "Oki Data" Test, established on *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), because the

Respondent's website uses obviously false contact information (such as "12345 Musterstadt") and does not disclose the lack of relationship between the Respondent and the Complainant. [WIPO Overview 3.0](#), section 2.8.

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.

Based on the available record, 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 view of the Panel, noting that that the Complainant's trademark predates the registration of the disputed domain name and considering that the disputed domain name resolves to a website featuring the Complainant's trademark and depictions of its products, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The impression given by this website would cause Internet users to believe that the Respondent is somehow associated with the Complainant when, in fact, it is not. The Panel holds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its web site in the sense of Policy, paragraph ¶ 4(b)(iv).

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy with regard to the disputed domain name.

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 <rivallovesme.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: December 17, 2024