

PANEL DECISION

7-Eleven, Inc., Reitan Convenience Sweden AB v. Eberhard Durrschmid Case No. DEU2024-0018

1. The Parties

The Complainants are 7-Eleven, Inc., United States of America, and Reitan Convenience Sweden AB, Sweden, represented by Tucker Ellis, LLP, United States of America.

The Respondent is Eberhard Durrschmid, Austria.

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <7-eleven.eu> is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the disputed domain name is NETIM.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 11, 2024. On June 11, 2024, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On June 13, 2024, the Registry 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 the Complainants on June 13, 2024, providing the registrant and contact information disclosed by the Registry, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on June 21, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

In accordance with paragraph B(2) of the ADR Rules the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 24, 2024. In accordance with paragraph B(3) of the ADR Rules the due date for Response was July 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 18, 2024.

The Center appointed Alfred Meijboom as the sole panelist in this matter on July 23, 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 paragraph B(5) of the ADR Rules.

4. Factual Background

7-Eleven, Inc., (“the first Complainant”) was established in 1927 and has been engaged in the business of, among other things, offering convenience store services and products, either directly or through its licensees, to the general public throughout the world. The first Complainant operates more than 83,000 stores in many countries around the world, including numerous European Union (“EU”) Member States. The first Complainant is the owner of the following word mark:

- Danish trademark 7-ELEVEN with registration number VR2007 04232 of November 8, 2007, for goods and services in classes 4, 35 and 37. (the “7-ELEVEN Trademark”)

The first Complainant licenses its 7-ELEVEN Trademark to Reitan Convenience Sweden AB (“the second Complainant”) for use in connection with convenience stores in Denmark, Norway, and Sweden.

The Respondent registered the disputed domain name on May 25, 2020. The disputed domain name resolves to a pay-per-click website which includes sponsored links related to “Franchise Business,” “Franchise Opportunities,” and “Business Opportunities,” and offers the disputed domain name for sale for USD 2,999. The Respondent also sent identical emails to the first Complainant on October 26, 2023, November 22, 2023, December 18, 2023, and April 3, 2024, with the heading “7-eleven.eu is for sale (Europe) – 2999 USD” in which it was “looking to sell this domain for 2,999 USD”, and offered a link to a third party domain platform where an offer could be made and the transfer could be concluded.

5. Parties’ Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name to the second Complainant.

Notably, the Complainants contend that the disputed domain name is identical to the 7-ELEVEN Trademark.

The Complainants allege that the disputed domain name has been registered by the Respondent without rights or legitimate interest in the disputed domain name because the Respondent is not commonly known by the disputed domain name, the Respondent was not licensed to use the 7-ELEVEN Trademark and does not have any legal relationship with the Complainants that would entitle the Respondent to use the 7-ELEVEN Trademark. The Complainants also allege that the Respondent cannot demonstrate any legitimate interest in the disputed domain name because it is using the disputed domain name to host a commercial parking page with pay-per-click advertising links and offers the disputed domain name for sale, and because the Respondent has repeatedly attempted to sell the disputed domain name to the first Complainant for USD 2,999.

According to the Complainants the Respondent’s use of the disputed domain name, which is identical to the 7-ELEVEN Trademark, to host a commercial parking page and its repeated efforts to sell the disputed domain name to the first Complainant for profit support the Complainants’ allegation that the Respondent registered and used the disputed domain name in bad faith. The Complainants further referred to earlier decisions under the UDRP where “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith”.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

A. Procedural Matters

The Complaint was filed by two Complainants, the first Complainant being the owner of the 7-ELEVEN Trademark and the second Complainant being the Swedish licensee of the first Complainant. Article 4(6) of Regulation (EU) 2019/517 states that “[d]omain names registered under the .eu TLD shall be transferable only to parties eligible for registration of .eu TLD names”, and Article 3 of Regulation (EU) 2019/517 provides that “[r]egistration of one or more domain names under the .eu TLD can be requested by any of the following: (...) (c) an undertaking that is established in the Union”. The second Complainant is established in European Union Member State Sweden and therefore satisfies such general eligibility criteria. As it is undisputed that the second Complainant is licensed by the first Complainant to use the 7-ELEVEN Trademark in Denmark, Norway, and Sweden, both Complainants have an interest in the requested transfer of the disputed domain name and it would be equitable and procedurally efficient to permit the consolidation of the Complaint (e.g., *Helinox Inc. and Helinox Europe B.V. v. Helinox Development*, WIPO Case No. [DEU2018-0001](#)). Consequently, the Panel accepts the Complainants jointly filing the Complaint.

The Respondent did not file a Response. In this respect, paragraph B(10)(a) of the ADR Rules states that “the Panel shall proceed to a decision on the Complaint and may consider this failure to comply as grounds to accept the claims of the other Party,” and paragraph B(10)(b) of the ADR Rules states that “the Panel shall draw such inferences therefrom as it considers appropriate”. As set out in section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)¹, the consensus view of UDRP panels is that the respondent’s default does not automatically result in a decision in favor of the complainant.

In order to succeed in its Complaint, the Complainants are required under paragraph B(11)(d)(1) of the ADR Rules to demonstrate the following:

- (i) the disputed domain name is identical or confusingly similar to a name in respect of which a right is recognised or established by the national law of a Member State and/or European Union law; and *either*
- (ii) the disputed domain name has been registered by the Respondent without rights or legitimate interest in the name; *or*
- (iii) the disputed domain name has been registered or is being used in bad faith.

B. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law

The Complainants have shown that the 7-ELEVEN Trademark consists of rights which are recognized by the national law of a European Union Member State for the purposes of the ADR Rules.

As the entire 7-ELEVEN Trademark is reproduced within the disputed domain name, and the Top Level Domain “.eu” is to be ignored in the assessment of the first element of paragraph B(11)(d) of the ADR Rules (e.g., *ELO v. Bum Lup*, WIPO Case No. [DEU2024-0011](#)), the disputed domain name is identical to the 7-ELEVEN Trademark for the purposes of the ADR Rules. [WIPO Overview 3.0](#), section 1.7.

¹ Noting the similarities between the Uniform Domain Name Dispute Resolution Policy (the “UDRP”) and the ADR Rules, the Panel shall refer to prior UDRP cases and the [WIPO Overview 3.0](#), where appropriate.

Consequently, the Panel finds that the Complainants have satisfied the requirement of the first element of paragraph B(11)(d)(1) of the ADR rules.

C. Rights or Legitimate Interests

Paragraph B(11)(e) of the ADR Rules provides a list of circumstances in which the Respondent may demonstrate rights to or legitimate interests in the disputed domain name.

Although the overall burden of proof in proceedings under the ADR Rules 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 of paragraph B(11)(d)(1) of the ADR rules (e.g., *A.S. Watson (Health & Beauty Continental Europe), B.V. v. Meike De Jong*, WIPO Case No. [DEU2023-0036](#); *Etablissements Sogal v. Patrice Beaut*, WIPO Case No. [DEU2023-0047](#)).

Having reviewed the available record, the Panel finds the Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants’ 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 ADR Rules or otherwise.

Based on the available record, the Panel finds the second element of paragraph B(11)(d)(1) of the ADR rules has been established.

D. Registered or Used in Bad Faith

For completeness’ sake the Panel has also reviewed the requirement of bad faith registration or use, although under the ADR Rules it is sufficient that a complainant, as in this case, proves the first two elements of paragraph B(11)(d)(1) of the ADR rules.

Pursuant to paragraph B(11)(f)(1) of the ADR Rules, there is evidence of registration or use of the disputed domain name in bad faith where there are circumstances indicating that the disputed domain name was registered or acquired primarily for the purpose of selling, renting or otherwise transferring the disputed domain name to the holder of a name in respect of which the complainants’ rights are recognized. It is undisputed that the Respondent sent no less than four emails to the first Complainant offering the disputed domain name for sale for a sum of USD 2,999, which is likely to be more than the costs incurred by the Respondent in connection with the disputed domain name. The Panel also infers from this that the Respondent, when sending said emails, must have been aware of the first Complainant’s rights to the 7-ELEVEN Trademark, to which, after all, the disputed domain name is identical. This use of the disputed domain name is therefore made in bad faith. [WIPO Overview 3.0](#), section 3.1.1.

Moreover, the Panel is satisfied that the 7-ELEVEN Trademark was already a well-known trademark at the time of the registration (also e.g., *7-Eleven, Inc. v. Seyed Amir Shahab Soleimani*, WIPO Case No. [DIR2020-0010](#); *7-Eleven, Inc. v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Manishankar, 7Eleven Arthashastra Technology Pvt Ltd*, WIPO Case No. [D2020-0805](#)), from which the Panel infers that the Respondent must have had the 7-ELEVEN Trademark in mind when it registered the disputed domain name and did so to take unfair advantage of its significance as a trademark, thus also making the registration of the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.2.2.

Therefore, the Panel finds the third and last element of paragraph B(11)(d)(1) of the ADR rules has also been established.

7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain name <7-eleven.eu> be transferred to Reitan Convenience Sweden AB².

/Alfred Meijboom/

Alfred Meijboom

Sole Panelist

Date: August 7, 2024

² The remedy sought by the Complainants is the transfer of the disputed domain name to the second Complainant, Reitan Convenience Sweden AB. As the second Complainant is established in Sweden, which is a Member State of the European Union, it satisfies the general eligibility criteria for registration of the disputed domain name set out in Article 3 of Regulation (EU) 2019/517.

The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a mutual jurisdiction, as defined in Paragraph A(1) of the ADR Rules.