

ADMINISTRATIVE PANEL DECISION

Respired Limited and Rensair Limited v. Pro-Light Design &
Technology Limited
Case No. DIE2022-0003

1. The Parties

The Complainants are Respired Limited, United Kingdom, and Rensair Limited, United Kingdom, represented by Withers LLP, United Kingdom.

The Registrant is Pro-Light Design & Technology Limited, Ireland.

2. The Domain Name and Registrar

The disputed domain name <rensair.ie> is registered with IE Domain Registry Limited (“IEDR”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 7, 2022, via email. On September 7, 2022, the Center transmitted by email to IEDR a request for registrar verification in connection with the disputed domain name. On September 16, 2022, IEDR transmitted by email to the Center its verification response confirming that the Registrant is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .IE Dispute Resolution Policy (the “IEDR Policy”), the WIPO Dispute Resolution Rules of Procedure for .IE Domain Name Registrations (the “Rules”), and the WIPO Supplemental Rules for .IE Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2.1 and 4.1, the Center formally notified the Registrant of the Complaint, and the proceeding commenced on September 22, 2022. In accordance with the Rules, paragraph 5.1, the due date for Response was October 20, 2022. The Registrant did not submit any response. Accordingly, the Center notified the Registrant’s default on October 28, 2022.

The Center appointed Adam Taylor as the sole panelist in this matter on November 7, 2022. 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 Complainants are related companies engaged in the supply of air purification devices. The Complainants are collectively referred to hereafter as “the Complainant”, unless it is necessary to refer to them separately.

The Complainant owns United Kingdom trade mark no. UK00003500709 and European Union trade mark no. 018255025 for RENSAIR, both filed on June 15, 2020, in classes 10, 11 and 42. The trade marks were registered on September 18, 2020, and January 3, 2022, respectively.

On December 20, 2020, the Registrant sent a LinkedIn message to the Complainant enquiring about a partnership to supply the Complainant’s products in Ireland.

The disputed domain name was registered on January 19, 2021.

On January 24, 2021, the parties entered into a distribution agreement. Under clause 11.1 thereof, the Registrant agreed that it acquired no rights in relation to the Complainant’s trade marks other than to use them as expressly provided for in the agreement, namely to promote, advertise and sell the Complainant’s products during the period of the agreement.

On February 1, 2021, the Complainant emailed the Registrant asking it to transfer the disputed domain name to the Complainant in return for reimbursement of acquisition costs, as had been discussed on a call between the parties.

On December 1, 2021, the Complainant emailed the Registrant asking for confirmation that the distribution agreement was cancelled. The Registrant provided this confirmation on December 7, 2021.

On January 26, 2022, the Complainant emailed the Registrant stating that the Registrant had no right to register the disputed domain name, that the parties had agreed that the Registrant would transfer the disputed domain name to the Complainant, but this had not happened, and asking the Registrant to now proceed with the transfer.

As of September 6, 2022, the disputed domain name redirected to a website at “www.pro-tect.ie” that was owned by the Registrant, and which offered an air purifier device that competed with the Complainant’s products.

5. Parties’ Contentions

A. Complainant

The following is a summary of the Complainant’s contentions.

The disputed domain name is identical or misleadingly similar to the Complainant’s trade mark.

The Registrant lacks rights in law or legitimate interests in the disputed domain name as the distribution agreement does not allow the Registrant to register any domain names which contain the Complainant’s trade mark.

The disputed domain name was registered in bad faith in that the Registrant registered the disputed domain name primarily to prevent the Complainant from reflecting its trade mark in a corresponding domain name.

The Registrant registered the disputed domain name one month after sending its initial message to the Complainant on December 20, 2020, and five days before the effective date of the distribution agreement, despite having no authority from the Complainant to do so. The Registrant knew that the disputed domain

name would be commercially significant to the Complainant and that the Registrant lacked rights in the relevant name.

The disputed domain name is also being used in bad faith.

The Registrant is intentionally attracting Internet users to its website by creating confusion with the Complainant's mark and/or using the disputed domain name in a manner that is likely to dilute the reputation of the Complainant's trade mark and/or using the disputed domain name to extract consideration in excess of the Registrant's documented expenses that are directly related to registration of the disputed domain name.

The Registrant has used the disputed domain name to offer products competing with the Complainant and has failed to comply with the Complainant's requests to transfer the disputed domain name to it.

B. Registrant

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

6. Discussion and Findings

Under the IEDR Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or misleadingly similar to a protected identifier in which the Complainant has rights;
- the Registrant has no rights in law or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered or is being used in bad faith.

A. Consolidation - Preliminary Issue

The principles governing the question of whether a complaint may be brought by multiple complainants or against multiple respondents are set out in section 4.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))¹.

The Panel is satisfied that the Complainants, which are part of a group of companies, have a specific common grievance against the Registrant and that the Registrant has engaged in common conduct that has affected the Complainants in similar fashion and (b) it would be equitable and procedurally efficient to permit the consolidation.

B. Identical or Misleadingly Similar

Under paragraph 1.3.1 of the IEDR Policy, "protected identifiers" include "trade and service marks protected in the island of Ireland".

The Complainant owns trade mark rights for RENSAIR that have effect within the island of Ireland and therefore constitute protected identifiers.

Disregarding the country code Top-Level Domain ".ie", which is excluded from the comparison, the disputed domain name is identical to the Complainant's trade mark.

¹ Although [WIPO Overview 3.0](#) is directed to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), given the similarity between the UDRP and the IEDR Policy, it is appropriate to have regard to these principles except to the extent that the IEDR Policy diverges from the UDRP.

The Panel finds that the Complainant has established the first element of paragraph 1.1 of the IEDR Policy.

C. Rights in Law or Legitimate Interests

As explained in section 2.1 of [WIPO Overview 3.0](#), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the registrant to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Paragraph 3.1 of the IEDR Policy gives examples of circumstances which, if proved, suffice to demonstrate that a registrant possesses rights or legitimate interests in the disputed domain name.

As to paragraph 3.1.1. of the IEDR Policy, for reasons explained in section 6.D below, the Panel considers that the Registrant has used the disputed domain name to intentionally attempt to attract, confuse and profit from Internet users seeking the Complainant's products. Such use of the disputed domain name could not be said to constitute a "good faith offering of goods or services, or operation of a business".

Nor is there any evidence that paragraphs 3.1.2 or 3.1.3 of the IEDR Policy apply.

The Panel finds that the Complainant has established a *prima facie* case of lack of rights or legitimate interests and there is no rebuttal by the Registrant.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 1.1 of the IEDR Policy.

D. Registered or Used in Bad Faith

As mentioned above, the Panel considers that the Registrant has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's protected identifier in accordance with paragraph 2.1.4 of the IEDR Policy.

In particular, following the agreed termination of the distribution agreement between the parties, the Registrant redirected the disputed domain name to another website of the Registrant offering products for sale that compete with the Complainant.

The likelihood of confusion is not diminished by the possibility that at some point users arriving at the Registrant's site will realise that the site is not connected with the Complainant. Paragraph 2.1.4 of the IEDR Policy is concerned with the intentional attracting of Internet users. The disputed domain name carries a high risk of implied affiliation as it is identical to the Complainant's trade mark – see section 2.5.1 of the [WIPO Overview 3.0](#) – and the Registrant profits from at least some of the traffic intended for the Complainant.

Under the IEDR Policy, it is sufficient for the Complainant to establish either registration or use in bad faith. Accordingly, it is not necessary for the Panel to consider whether, in addition to using the disputed domain name in bad faith, the Registrant had also registered it in bad faith.

For the above reasons, the Panel concludes that the Complainant has satisfied the third element of paragraph 1.1 of the IEDR Policy.

7. Decision

For all the foregoing reasons, in accordance with paragraphs 5 of the IEDR Policy and 14 of the Rules, the Panel orders that the disputed domain name <rensair.ie> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Dated: November 25, 2022