

ADMINISTRATIVE PANEL DECISION

Papa John's International, Inc. v. Angelina Genova
Case No. DRO2023-0007

1. The Parties

The Complainant is Papa John's International, Inc., United States of America ("US"), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Angelina Genova, Bulgaria.

2. The Domain Name and Registry

The disputed domain name <papajohns.ro> (the "Domain Name") is registered with ROTLD (the "Registry").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 19, 2023. On July 25, 2023, the Center transmitted by email to the Registry a request for Registrar verification in connection with the Domain Name. On July 25, 2023, the Registry transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Perfect Privacy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 25, 2023, providing the registrant and contact information disclosed by the Registry, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on July 26, 2023.

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 the Respondent of the Complaint, and the proceedings commenced on July 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 17, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on August 22, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant was founded over 30 years ago and is the third largest take-out and pizza delivery restaurant chain in the world. It has international presence with more than 5,000 Papa John's restaurants in 50 countries and territories around the world. For the year ending December 2021, Papa John's reported total revenue of over USD 2.1 billion. The Complainant operates numerous websites, chief among them, "www.papajohns.com".

The Complainant owns trademark registrations for the trademarks PAPA JOHN'S and PIZZA PAPA JOHN'S, such as such as US trademark registration number 1383735 for PAPA JOHN'S (registered on February 18, 1986) and UK trademark registration number UK00001556097 for PAPA JOHN'S (registered on June 9, 1995).

The Respondent registered the Domain Name on September 15, 2022. The Domain Name resolves to a pay-per-click website including links in which the Domain Name is offered for sale.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Name is identical or confusingly similar to the Complainant's trademark, as the Domain Name consists of the Complainant's trademark minus the apostrophe.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent has not been commonly known by the Domain Name. The Complainant has neither authorized, nor given its consent to the Respondent to register or use the Domain Name. The Complainant is not aware of any use of the Respondent, or demonstrable preparations to use, the Domain Name, or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services. Use of the Domain Name to direct Internet users to a website featuring links to third-party websites, some of which directly compete with the Complainant's business, does not confer rights or legitimate interests.

The Complainant argues - based on the Complainant's fame and goodwill - that it is not possible to conceive of a plausible situation in which the Respondent would have been unaware of the Complainant and its trademark at the time the Domain Name was registered. The Respondent's use of the Domain Name – a website with pay-per-click links – and the offer to sell the Domain Name, are both evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has established that it has rights in the trademark PAPA JOHN'S. The Domain Name is identical to the Complainant's trademark, save the hyphen. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"); see [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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. While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. 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 Domain Name.

Based on the record, the Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. The Respondent’s use of the Domain Name is rather evidence of bad faith, see below.

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.

The composition of the Domain Name and the fame of the Complainant indicate that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Name. The Respondent’s use and offer to sell the Domain Name, are clear evidence of bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy.

The third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name <papajohns.ro> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: August 30, 2023