

ADMINISTRATIVE PANEL DECISION

Robert Bosch GmbH v. Rui Gao

Case No. D2023-2009

1. The Parties

The Complainant is Robert Bosch GmbH, Germany, represented by Société d'Avocats PYMLEX, France.

The Respondent is Rui Gao, China.

2. The Domain Name and Registrar

The disputed domain name <bosch-enfr.com> ("the Domain Name") is registered with Name.com, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 5, 2023. On May 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 9, 2023, 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 May 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 31, 2023.

On May 10, 2023, the Center sent an email communication to the Registrar regarding the Domain Name expiry set on June 14, 2023. On May 11, 2023, the Registrar confirmed that the Domain Name was set to compliance lock pending the proceedings. The Center transferred this information to the Parties on May 11, 2023. On May 17, 2023, the Respondent renewed the Domain Name. The Registrar confirmed that the renewal was effective and that expiry was now due June 14, 2024.

The Center appointed Dawn Osborne as the sole panelist in this matter on June 6, 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 by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is the owner of, *inter alia*, the following registered trade marks for electronic goods:

- International Trade mark No. 942823, BOSCH, registered on 16 October, 2007;
- International Trade mark No. 654067, BOSCH, registered on 10 June, 1995;
- European Union Trade mark No. 004202396, BOSCH INVENTED FOR LIFE, registered on 2 May, 2006;
- European Union Trade mark No. 000067744, BOSCH, registered on 26 June, 2000;
- Chinese Trade mark No. 1194571, BOSCH, registered on 25 July, 1998; and
- Chinese Trade mark No. 858690, BOSCH, registered on 7 March, 1997.

The Domain Name registered in 2022 has been used for a site offering the Complainant's goods at a drastic discount using the Complainant's BOSCH mark in its logo form as a masthead so as to appear to be an official site of the Complainant. The address and telephone number on the web site attached to the Domain Name are false. The Respondent has been the subject of an adverse decision under the UDRP for registering another domain name containing the trade mark of a third party.

5. Parties' Contentions

A. Complainant

The Complainant owns the trade mark BOSCH registered, *inter alia*, as set out above.

The Domain Name registered in 2022 is confusingly similar to the Complainant's trade mark containing it in its entirety, and merely adding the generic term "enfr" (likely to be taken to associate the Domain Name with France), a hyphen and the generic Top Level Domain ("gTLD") .com which does not prevent said confusing similarity between the Domain Name and the Complainant's trade mark.

The Respondent is not commonly known by the Domain Name and is not authorised by the Complainant. The website connected with the Domain Name purports to impersonate and to be an official site of the Complainant using the Complainant's trade mark in its logo form as a masthead. Since Internet users will be duped into believing the Respondent's site and products offered are official this is not legitimate. It is registration and use in opportunistic bad faith of a well known mark confusing Internet users for commercial gain in full knowledge of the Complainant's rights. The fact that the goods are being sold at a ninety percent discount and the address and telephone number on the web site are false suggests fraudulent activity.

The Respondent has been the subject of an adverse decision under the UDRP for registering another trade mark of a third party in a domain name in bad faith circumstances suggesting a pattern of activity.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Domain Name registered in 2022 consists of the Complainant's BOSCH mark (which is registered, *inter alia*, in the United States of America for electrical goods since at least 1995), the generic term "enfr" likely to be interpreted by many as "en France" translating to English as "in France", a hyphen and the gTLD .com.

Previous panels have found confusing similarity when a respondent merely adds a hyphen, a term and a gTLD to a complainant's mark. Accordingly the Panel holds that the addition of a hyphen, the letters 'enfr' and the gTLD .com to the Complainant's trade mark in the Domain Name does not prevent confusing similarity between the Domain Name and the Complainant's mark.

Accordingly, the Panel holds that the Domain Name is confusingly similar to the Complainant's registered mark.

As such the Panel holds that Paragraph 4 (a) (i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Complainant has not authorised the use of its mark. There is no evidence or reason to suggest the Respondent is, in fact, commonly known by the Domain Name. The website attached to the Domain Name purports to offer the products of the Complainant at a drastic discount and uses the Complainant's mark in its logo form as a masthead to appear to be an official site of the Complainant. The Panel finds this use is confusing and constitutes impersonation of the Complainant. As such it cannot amount to the *bona fide* offering of goods and services.

The Panel also notes that the address and telephone number given on the web site for the Respondent appear to be false.

The Respondent has not answered this Complaint or offered any explanation to rebut the *prima facie* case evidenced by the Complainant in this case.

As such the Panelist finds that the Respondent does not have rights or a legitimate interest in the Domain Name and that the Complainant has satisfied the second limb of the Policy.

C. Registered and Used in Bad Faith

In the opinion of the Panel the use made of the Domain Name in relation to the Respondent's site is confusing and disruptive in that visitors to the site might reasonably believe it is connected to or approved by the Complainant as it uses the Complainant's mark in its logo form as a masthead and appears to be an official site of the Complainant. The reference to the Complainant's products on the Respondent's web site and the use of the Complainant's logo shows that the Respondent is aware of the Complainant and its rights, business and products.

Accordingly, the Panel holds that the Respondent has intentionally attempted to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation or endorsement of the web site and products offered on it likely to disrupt the business of the Complainant.

Further the fact that goods are offered at a drastic discount and the Respondent uses false address and contact details on its web site also suggests bad faith registration and use.

The Respondent has also been the subject of another adverse decision under the UDRP for registration of a trade mark of a third party in a domain name suggesting a pattern of bad faith activity.

As such, the Panelist believes that the Complainant has made out its case that the Domain Name was registered and used in bad faith and has satisfied the third limb of the Policy under para 4(b)(ii),(iii) and (iv).

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 Domain Name <bosch-enfr.com> be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: June 14, 2023