

ADMINISTRATIVE PANEL DECISION

Caviar Petrossian v. Andrea Roca

Case No. D2023-2142

1. The Parties

The Complainant is Caviar Petrossian, France, represented by Areopage, France.

The Respondent is Andrea Roca, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <petrossia.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 15, 2023. On May 16, 2023, 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 disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 24, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 25, 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 May 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 23, 2023.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on July 28, 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 belongs to the Petrossian group which is operating a worldwide business of selling caviar and other seafood, going back to 1920.

The Complainant owns trademark registrations in multiple jurisdictions, including the European Union trademark PETROSSIAN (Reg. No. 15876667, registered on February 1, 2017) and the International trademark PETROSSIAN (Reg. No. 425498, registered on October 22, 1976).

The Complainant further holds the domain name <petrossian.com> under which the official website of the Complainant is available, where it advertises and sells its services.

The disputed domain name was registered on June 13, 2019, and resolves to the Registrar's website where it is listed as being for sale.

5. Parties' Contentions

A. Complainant

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4.

B. Respondent

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

6. Discussion and Findings

Based on the facts and evidence introduced by the Complainant, and with regard to paragraphs 4(a), (b) and (c) of the Policy, the Panel concludes as follows:

A. Identical or Confusingly Similar

The Complainant has submitted sufficient evidence to demonstrate its registered rights in the PETROSSIAN trademark.

A domain name is "identical or confusingly similar" to a trademark for the purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of other terms in the domain name (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)).

This includes the omission of the letter "n" to the Complainant's trademark, which is considered a common, obvious, or intentional misspelling of a trademark (*i.e.*, "typosquatting"). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9.

Therefore, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's PETROSSIAN trademark.

The Complainant has thus fulfilled the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain name. The Complainant contends that the Respondent is neither affiliated with the Complainant nor making any *bona fide* use of the disputed domain name.

Furthermore, the composition of the disputed domain name, reflecting the Complainant's trademark with a common, obvious or intentional misspelling, cannot constitute fair use in these circumstances to the extent it would be seen to impersonate or suggests sponsorship or endorsement by the Complainant.

Based on the Complainant's contentions, the Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under the circumstances of this case, it can be inferred that the Respondent was aware of the Complainant's trademark when registering the disputed domain name, considering that the disputed domain name was registered several years after the Complainant's trademark had been registered, and that it consists of a misspelling of the Complainant's trademark which is the subject of many trademark registrations and has existed for decades.

The evidence submitted by the Complainant supports a finding that the Respondent has sought to capitalize on the Complainant's mark and reputation (see *Claudie Pierlot v. Yinglong Ma*, WIPO Case No. [D2018-2466](#)).

Accordingly, the Complainant has also fulfilled paragraph 4(a)(iii) of the Policy.

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, <petrossia.com>, be transferred to the Complainant.

/Tobias Zuberbühler/

Tobias Zuberbühler

Sole Panelist

Date: August 11, 2023