

ADMINISTRATIVE PANEL DECISION

RAMPF Holding GmbH & Co. KG v. Miss Koala
Case No. D2023-5380

1. The Parties

The Complainant is RAMPF Holding GmbH & Co. KG, Germany, represented by MSA IP – Milojevic Sekulic & Associates, Serbia.

The Respondent is Miss Koala, Brazil.

2. The Domain Name and Registrar

The disputed domain name <rampfgroup.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 28, 2023. On December 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 28, 2023, the Registrar transmitted by email to the Center its verification response disclosing the registrant and contact information for the disputed domain name which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 8, 2024, 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 January 13, 2024.

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 January 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 22, 2024.

The Center appointed Manuel Moreno-Torres as the sole panelist in this matter on February 28, 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 the Rules, paragraph 7.

4. Factual Background

The Complainant is the parent company of the RAMPF Group, a German manufacturer of reactive resins and machine systems with over 900 employees.

The Complainant is the owner of the following trademark rights for RAMPF:

International Trademark with registration No. 972215 and registered on June 10, 2008;
German Patent and Trademark Office, with registration No. 2078346 and registered on September 21, 1994.
German Patent and Trademark Office, with registration No. 302008010783 and registered on May 20, 2008.

The Complainant owns and uses as official domain name <rampf-group.com> since 2001.

The Respondent registered the disputed domain name on August 14, 2023, and is linked to a Pay-Per-Click ("PPC") site.

The disputed domain name has been used to send phishing emails to request financial information from the Complainant's customers regarding outstanding invoices impersonating both the Complainant and its employees.

On December 14, 2023, the Complainant sent a takedown notice to the mail service provider in order to obtain a suspension of the mail servers attached to the disputed domain name. The provider gave notice of such request, but it is unclear if it is implemented since the MX records still appears to be configured.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends Registrant's contact information, revealed upon submission of the complaint, is clearly false and thus, there is a lack of legitimate fair use (see Section 2.5.3 of the [WIPO Overview 3.0](#)).

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a Response. Under paragraph 14(a) of the Rules in the event of such a “default” the Panel is still required “to proceed with a decision on the complaint”, whilst under paragraph 14(b) it “shall draw such inferences there from as it considers appropriate”. This dispute resolution procedure is accepted by the domain name registrant as a condition of registration.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, “group” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Although 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 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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

That said, none of the Respondent’s defenses under UDRP paragraph 4(c) are on the record.

The Panel also notes that the mere composition of the disputed domain name, comprising the Complainants’ RAMPF trademark combined with the term “group” which mimics Complainant’s official domain name, e.g., <rampf-group.com>, carries a risk of implied affiliation with the Complainant. See section 2.5.1. of the [WIPO Overview 3.0](#).

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Besides, by providing false contact information the Respondent fails to provide indicia of legitimate rights in the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel finds that the Respondent had actual knowledge of the Complainant and its trademarks when registering the disputed domain name. As the evidence provided shows, the very same day of the registration, the disputed domain name was used to send a fake email impersonating the Complainant and one of its employees.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <rampfgroup.com> be transferred to the Complainant.

/Manuel Moreno-Torres/

Manuel Moreno-Torres

Sole Panelist

Date: March 13, 2024